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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 907 and 908

[FV-89-067 FR]

Navel Oranges Grown in Arizona and Designated Part of California; Valencia Oranges Grown in Arizona and Designated Part of California; Revision of the Administrative Rules and Regulation on By-Product Oranges

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises administrative rules and regulations under the California-Arizona navel and Valencia orange marketing orders which exempt the handling of navel and Valencia oranges for processing into by-products from volume regulations and assessment obligations under these orders. This action was recommended by the Navel and Valencia Orange Administrative Committees (committees), which are responsible for local administration of the orders. This action will: Define the term "processing into by-products;" allow approved by-products manufacturers, and require by-products manufacturers (processors) to sell up to 5 percent of their orange food by-products at the retail level; add authority for the committees to perform initial and periodic inspections of by-products manufacturers' premises; add additional criteria by which a by-products manufacturer could be suspended or removed from the committees' approved lists of by-products manufacturers; and require by-product manufacturers to submit additional information on their operations to the committees. These changes will assist the committees' compliance personnel in determining if processors' by-products operations are in accord with the by-products exemption.

EFFECTIVE DATE: December 6, 1990.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, MOAB, F&V, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-8139.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order Nos. 907 and 908 (7 CFR parts 907 and 908), both as amended, regulating the handling of navel and Valencia oranges grown in Arizona and designated parts of California. These orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

This rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both the RFA and the Act have small entity orientation and compatibility.

There are approximately 130 handlers of navel oranges and 115 handlers of Valencia oranges subject to regulation under their respective orders and approximately 4,070 producers of navel oranges and 3,500 producers of Valencia oranges in California and Arizona. In addition, there are approximately 45 by-products manufacturers which will be affected by this rule. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms, which include handlers and by-products manufacturers, are defined as those whose annual receipts are less than $3,500,000. The majority of California-Arizona navel and Valencia orange growers, handlers, and processors may be classified as small entities.

It is estimated that approximately 30 processors per week during the navel and Valencia orange marketing seasons will complete the new weekly report discussed in this rule. In addition, it will take approximately 0.33 hour for each respondent to complete the new report.

In compliance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection and reporting provisions that are included in this final rule have been approved by the Office of Management and Budget (OMB) and assigned OMB Control Nos. 0581-0116 (naval oranges) and 0581-0121 (Valencia oranges).

A proposed rule was published in the March 14, 1990, issue of the **Federal Register** (55 FR 9453). Comments were requested from interested persons until April 13, 1990. Three comments were received. The commenters were: Mr. Richard J. Pescosolido of Foothill Farms (Foothill); Mr. James A. Moody representing Farmers Alliance for Improved Regulation (FAIR); and Mr. Billy J. Peightal, manager of the Navel and Valencia Orange Administrative Committees (committees).

Several objections submitted on the proposed rule were raised by more than one commenter. Where objections have been duplicated by more than one party, the content of such comments are discussed together. Other comments are addressed individually. In addition, several of the comments have been adopted in this final rule and are discussed herein.

This rule defines the term "processing into by-products;" allows approved by-products manufacturers (processors) to sell up to 5 percent of their orange food by-products at the retail level; adds authority for the committees to perform initial and periodic inspections of by-products manufacturers' premises; adds additional bases upon which a by-products manufacturer could be suspended or removed from the committees' approved lists of by-products manufacturers; and requires by-products manufacturers to submit additional information on their operations to the committees.

Sections 907.67 and 908.67 of the navel and Valencia orange marketing orders,

respectively, exempt the handling of oranges from certain regulations for specified purposes, including the handling of oranges to commercial processors for processing into products including juice. For example, the handling of such oranges is not subject to volume regulations or assessments. These sections also authorize the committees to review and prescribe, with the approval of the Secretary, rules, regulations, and safeguards they deem necessary to prevent oranges shipped into by-product channels from entering into domestic fresh fruit channels.

Sections 907.131 and 908.131 of the rules and regulations of the orders describe procedures whereby by-products manufacturers may apply for inclusion on the committees' approved lists of by-products manufacturers; the methods whereby the committees approve processors' applications; the terms under which an approved by-products manufacturer could be removed or suspended from the approved lists; the forms used by the by-products manufacturers and handlers to report the quantity of navel or Valencia oranges diverted to by-products; and other pertinent information. Navel or Valencia oranges handled to processors on the committees' approved lists of by-products manufacturers are exempt from volume regulation and assessment obligations.

Processors wishing to be included on the committees' approved lists of by-products manufacturers supply information on their by-products' operations on their applications to be on the approved lists. In order to remain on the committees' approved lists, processors are required to submit information to the committees concerning the source of the navel or Valencia oranges received and the quantity of by-products produced.

Sections 907.131 and 908.131 currently do not contain a definition of what "processing into by-products" includes. In the past, this exemption has been applied to fruit which has been subjected to such processes as juicing, freezing, canning, dehydrating, pulping, or heating, as well as fruit used for animal feed. However, recent trends in the California-Arizona orange industries have caused some confusion among handlers and processors as to what other activities processing could include.

For example, a change in food service trends has occurred in which oranges are being sliced, diced, or peeled for use in food service industries. Such navel or Valencia oranges in the past have been considered exempt under the by-product exemption; that is, handlers could handle such oranges to processors without paying assessments on the oranges, and there was no limitation on the amount they could handle to a processor. However, the absence of a definition of by-products has caused some misunderstanding among processors and handlers as to what "processing into by-products" includes. The committees, therefore, recommended that the term "processing into by-products" be clearly defined to reflect such current industry practices.

By-products were thus proposed to be defined as products of navel or Valencia oranges which are altered in form through such means as freezing, canning, dehydrating, pulping, slicing, dicing, peeling, juicing, or heating, as well as oranges used as animal feed.

FAIR commented that the definition of by-products in the proposed rule should be clarified and expanded to include shrink-wrapped oranges. The commenter stated that heating is included in the shrink-wrapped process and, thus, shrink-wrapped oranges should be considered by-products.

The shrink-wrapped process, while it does use heat to shrink wrap the fruit, does not physically or chemically alter the form of the fruit as occurs when fruit is dehydrated, pulped, sliced, diced, peeled, juiced or heated. Shrink-wrapped oranges are considered fresh oranges and, therefore, are subject to volume regulation and assessments under the marketing orders.

FAIR also questioned if the proposed definition would change current law and, if so, have any handlers in the past or are processors currently violating the existing definition. This rule is not changing a law, merely adding a definition to the regulations to reflect current practices in the navel and Valencia orange industries. The addition of a definition of by-products and the contents of this final rule are applicable only to by-products manufacturers who apply for inclusion on or are on the committees' approved lists of by-products manufacturers. As aforementioned, the term "processing into by-products" has never been defined in the navel and Valencia orange marketing orders. Record evidence from the promulgation hearings for the navel and Valencia orange marketing orders indicates that oranges are considered processed into by-products when the fruit has been chemically or physically altered in form. As new markets, which require new "processes," have developed in the food service industry, it has become evident that a definition of by-products is necessary to reflect current industry practices.

The addition of a definition of "processing into by-products" will also assist the committees' compliance personnel in determining if a processor's by-products operations are in accord with the by-products exemption in the rules and regulations of the navel and Valencia orange marketing orders. Therefore, this rule revises §§ 907.131(a) and 908.131(a) to include a definition of by-products.

The current procedures for applying for approved by-products manufacturer status and for suspension of such status are found in §§ 907.131 and 908.131 of the rules and regulations. Specifically, paragraph (b)(1) of §§ 907.131 and 908.131 of the rules and regulations of the navel and Valencia orange marketing orders, respectively, require processors applying to be placed on the committees' approved lists of by-products manufacturers to submit to the committees an application on N.O.A.C./V.O.A.C. Forms No. 14. These forms include the name and address of the applicant; the proposed type of by-product(s) to be made or derived from oranges; the approximate quantity of oranges to be used annually; a description of the by-product(s) to be manufactured, the equipment to be used in manufacturing such by-products and the capacity per hour thereof; the intended disposition of unused components of the oranges; a statement describing the manner in which the by-product(s) will be sold, whether at the wholesale or retail level (in the case of animal feed), or both; a statement whether orange juice will be pasteurized and, if so, a description of the manner in which such pasteurization will be accomplished; the location of the plant(s); a statement that the exempt oranges acquired will be used for by-products manufacturing only and will not be resold or disposed of in fresh fruit channels; and an agreement to submit such reports as may be required by the committees.

Paragraph (b)(2) of §§ 907.131 and 908.131 explains the criteria for approving a processor's application. An application is first referred to the committees' Compliance Departments for investigation, and the results of the investigation are reported to the committees. The applicable committee approves the application if, in its opinion: The applicant's principal occupation is manufacturing food by-products, including orange by-products, except in the case of those applicants providing oranges or by-products for animal feeding purposes; all orange by-products, including juice, will be sold at the wholesale level only or will be used

for animal feed; the applicant agrees to submit such reports as may be required by the committees; the oranges obtained under this exemption will not be resold or disposed of in fresh fruit channels; and approval of the application will not be contrary to the purposes of the navel or Valencia orange marketing orders.

Paragraph (b)(3) of §§ 907.131 and 908.131 currently lists four criteria for removing or suspending a by-products manufacturer from the approved lists. These criteria are: Failure to commercially process navel or Valencia oranges into by-products for a period of one year or more; selling or otherwise disposing of any navel or Valencia orange by-product(s) manufactured from navel or Valencia oranges at the retail level other than for animal feeding; selling or otherwise disposing of oranges obtained under this exemption in fresh fruit channels; or failing or refusing to submit reports required by the committees.

The changes in the application for approved by-products manufacturer status and the suspension or removal of such by-products manufacturers from the approved list of by-products manufacturers are as follows: The committees recommended revising paragraph (b)(1)(vi) of §§ 907.131 and 908.131 to require processors to include on their applications a projection of the percentage of by-products which would be sold in each outlet, wholesale or retail. In addition, paragraph (b)(2)(ii) of §§ 907.131 and 908.131 is revised to include a provision that by-products manufacturers may sell up to 5 percent of their orange by-products, other than those used for animal feed, at the retail level. Allowing processors to sell at retail up to 5 percent of their food by-products could allow more processors to be accepted for inclusion on the committees' lists as a few of the processors applying for exemption already sell a small percentage of their by-products to occasional walk-in business. In addition, the 5 percent or less of by-products going into retail outlets will not impact the industry negatively. Therefore, these revisions will provide an opportunity for by-products manufacturers to sell by-products at the retail level and still qualify for placement on the committees' approved lists of by-products manufacturers. There will continue to be no limit on the amount of by-products which could be sold at retail for use as animal feed. Further miscellaneous changes to paragraph (b)(2) of §§ 907.131 and 908.131 are proposed for clarity.

Comments were received from the committees, Foothill, and FAIR concerning the retail sale of 5 percent of a processor's orange by-products sales volume.

The committees stated that paragraph (b)(2)(i) of §§ 907.131 and 908.131 of the proposed rule did not reflect the committees' intent. The committees' recommendation, which parallels the current rules and regulations, stated that the application for inclusion on a committee's approved list of by-products manufacturers would be approved if, among other considerations, the committee determines that the applicant's by-products facility's principal occupation is manufacturing food by-products, including orange by-products, except those applicants providing oranges or by-products for animal feeding purposes, i.e., applicants or by-products plants providing oranges or by-products for animal feeding purposes can have another primary occupation whereas by-products facilities producing food by-products can only manufacture food by-products as a primary occupation. The March 14 proposed rule, which slightly modified the committees' recommendation, stated that a by-products facility's principal occupation must be manufacturing food by-products or manufacturing by-products for animal feeding purposes, i.e, a processor who manufactures by-products for animal feeding purposes. The Department's modification misinterpreted the committees' original recommendation. It is the committees' intent that the principal occupation of the processing plant be food products, except if the plant manufactures animal by-products. In that case, the plant that manufactures animal by-products may have another principal occupation. Therefore, paragraph (b)(2)(i) of §§ 907.131 and 908.131 of the proposed rule is modified to reflect the committees' intent as stated in their recommendation.

FAIR's comment questions paragraph (b)(2)(i) of §§ 907.131 and 908.131. The commenter states that the proposed rule implies that processors must be independent of other citrus activities, i.e., a grower, handler, or marketing company could not own a by-products manufacturing company. This rule does not preclude a handler, grower, or marketing company from owning or having a major interest in a processing company. However, as aforementioned, the principal operation of the processing facility must be manufacturing food by-products.

FAIR also stated that handlers who are also processors should be more stringently audited and inspected than other processors because the risk of diversion to fresh sales is so much greater. The new procedures discussed in this rule are expected to strengthen compliance and reduce the risk of undetected diversions of by-product oranges to fresh sales by any processing facility. In addition, there is no evidence that handlers who are processors pose a greater risk of diversion than other handlers.

The committees objected to the Department's modification of their recommended change of paragraph (b)(2)(ii) of §§ 907.131 and 908.131. They stated that the proposed language should be changed back to that which was recommended by the committees. The committees' original recommendation stated that: "All orange by-products, including juice, will be sold primarily at wholesale with no more than 5 percent of the applicant's by-products sales volume resulting from retail sales, or will be used in animal feeding." The Department modified the language as follows: "All orange by-products, other than by-products used for animal feeding, will be sold at wholesale except that not more than 5 percent of such by-product sales shall result from retail sales." The Department's modification does not change the substance of the committees' recommendation, rather, it clarifies the intent. Therefore, the committees' exception is denied.

Foothill and FAIR also commented on paragraph (b)(2)(ii) of §§ 907.131 and 908.131 and objected to the provision in the proposed rule that would have allowed up to 5 percent of the processors' by-product oranges to be sold in the retail market. Specifically, the discussion contained in the supplementary information of the proposed rule stated that "* * * by-products manufacturers [may] sell by-product oranges at the retail level * * *" Foothill and FAIR commented that such a provision could allow processors to sell 5 percent of their by-product oranges in the domestic market. This was an inadvertent error and was not the intent of the proposal. By-products manufacturers may only sell up to 5 percent of their orange by-products sales volume, not by-products oranges, at the retail level.

FAIR also questioned the basis for the 5 percent calculation, i.e., whether this percent will be based on value, volume, weight, or by-product category. As noted above, the 5 percent limitation refers to the total orange by-products sales volume, i.e., pounds or gallons. In addition, FAIR questioned the difference

between wholesale and retail markets and stated that a prohibition against the retail sale of by-products would destroy a growing outlet for retail sales of by-products. Further, in contradiction to the commenter's suggestion, allowing processors to sell 5 percent of their orange by-products sales volume will allow more processors to apply and be approved for the committees' approved lists and could have a positive impact on the industry as it would tend to facilitate the utilization of more navel and Valencia oranges. In response to the difference between wholesale and retail markets, by-products sold at retail are sold directly to the consumer whereas by-products sold at wholesale are sold to an entity for resale to the consumer. Further, processors voluntarily apply to be on the committees' approved lists of by-products manufacturers. Those processors will be subject to the rules and regulations of the marketing orders concerning by-products. However, processors who are not on the committees' approved lists of by-products manufacturers are not subject to the marketing orders and may sell any amount of their by-products in the retail market.

Currently, §§ 907.131 and 908.131 do not provide explicit authority for the performance of initial and periodic inspections of the by-products manufacturers' facilities. An initial inspection of the processor's facilities is necessary to ensure that the processor has the necessary equipment to process navel or Valencia oranges into by-products and that oranges shipped under the by-products exemption would not be entering the fresh fruit market. Periodic inspections of the by-products manufacturer's premises will allow the committees to be assured that the processor is operating as an approved by-products manufacturer.

The committees recommended that authority to perform periodic inspections of by-products manufacturers' premises be added to the requirements for approval as an authorized by-products manufacturer. The Department modified the committees' proposal to specify that such authority include authority for an initial inspection. The modified proposal will aid the committees in ensuring that processors on the committees' approved lists of by-products manufacturers would be in compliance with the rules and regulations of the navel and Valencia orange marketing orders.

The committees objected to the inclusion of an initial inspection in paragraph (b)(2) of §§ 907.131 and 908.131 of the proposed rule. The comment stated that this is superfluous as an inspection of a processor's facilities is part of any investigative process. As aforementioned, an initial inspection of the processor's facilities is required to ensure that the processor has the necessary equipment to process navel or Valencia oranges and that oranges shipped under the by-products exemption would not be entering the fresh fruit market. Therefore, the language in the proposed rule is adopted without modification in this final rule.

The committees' comment also suggested replacing the phrase "immediately upon request" in paragraphs (b)(1)(xi), (b)(2)(iv), and (b)(3)(iv) of §§ 907.131 and 908.131 with the phrase "at any time" to be consistent with §§ 907.73(c) and 908.73(c) of the navel and Valencia orange marketing orders. However, §§ 907.73(c) and 908.73(c) refer to handler records, not by-products manufacturers' records, or inspection of by-products manufacturers' facilities. Therefore, there is no need for §§ 907.131 and 908.131 to be consistent with §§ 907.73(c) and 908.73(c) in this instance, as the sections refer to different reports. Thus, the language in the proposed rule is adopted without modification in this final rule.

Foothill and FAIR commented that inspections and audits of processors must be mandatory. In addition, those commenters stated that audits should be performed on all incoming and outgoing products, and inspections should be performed quarterly. Requiring quarterly audits of all by-products manufacturers would be both time-consuming and expensive and are considered unnecessary at this time. The additional reporting requirements and periodic inspections of the by-products manufacturers' premises will allow the committees to ensure that processors are operating as approved by-products manufacturers.

Therefore, paragraphs (b)(1), (b)(2) and (b)(3) of §§ 907.131 and 908.131 of the rules and regulations of the navel and Valencia orange marketing orders, respectively, are revised as modified herein. The revision adds authority for the performance of initial and periodic inspections of the by-products manufacturer's premises immediately upon request at any time during reasonable business hours of the processor.

Paragraph (b)(3) of §§ 907.131 and 908.131 is further revised by adding additional bases upon which a processor could be suspended or removed from the list of approved by-products manufacturers. The additional bases include: Selling or disposing of more than 5 percent of navel or Valencia orange by-products, other than by-products used as animal feed, at the retail level; failing to permit inspection of processing facilities; failing to disclose the origin of all oranges that are acquired by timely submitting copies of N.O.A.C./V.O.A.C. Forms No. 38 to the appropriate committee; and failing to confirm the receipt of navel or Valencia oranges obtained under the by-products exemption by submitting a copy of N.O.A.C./V.O.A.C. Forms No. 15 to the appropriate committee. These additional criteria will help the committees determine processors' compliance with the by-products requirements in the rules and regulations of the orders.

Paragraph (c) of §§ 907.131 and 908.131 of the rules and regulations of the navel and Valencia orange marketing orders, respectively, currently require approved by-products manufacturers to submit to the committees, upon request, on or before the tenth day of the month, a report of the navel or Valencia oranges used during the preceding calendar month. The committees have indicated that this procedures does not provide sufficient information to allow the committees to determine whether the by-products manufacturer is in compliance with the orders and their rules and regulations.

Therefore, this action revises paragraph (c) of §§ 907.131 and 980.131 to require processors to submit new N.O.A.C./V.O.A.C. Forms No. 38 to the appropriate committees on a weekly basis, no later than 72 hours following the end of the period covered by the report. These forms will be required during each crop year, from the date on which oranges are first received for processing through the final date of processing for such crop year. Forms No. 38 contain information as to the quantity and source of production area and non-production area navel or Valencia oranges, e.g., California, Arizona, Texas, Florida, received for processing and a list of the different types of by-products manufactured, including the quantity of such whole navel or Valencia oranges used to produce each by-product, and the quantity of by-product produced.

The additional information will aid the committees in ensuring that California-Arizona navel and Valencia oranges exempted under the by-products exemption do not enter the fresh fruit market. Comparisons of the total amount of oranges received by processors and the total amounts of by-products manufactured would give the committees a method to verify that all

oranges received were manufactured into by-products.

The committees objected to the Department's modification of their proposed language in paragraph (c) of §§ 907.131 and 908.131. The Department modified the committees' recommendation by omitting the authority for the committees to specify another reporting period other than weekly and the provision that processors may select another reporting period ending date other than Thursday of each week. The committees stated that nearly all orange by-products manufacturers gather their yield data information when their plants are shut down, normally on a weekend. The committees were of the view that a Thursday deadline for sending in the reports could yield incomplete information. Therefore, the processors should be given the opportunity to select another, more convenient reporting period. In addition, the committees were of the view that they should have the authority to establish another reporting period as, over a period of time, it may become evident that weekly reports from processors are not necessary.

Foothill's comment objected to the committees' comment concerning a different reporting period for processors. The commenter stated that the reporting period should match that of the handlers in order to monitor or match records between the handlers and by-products manufacturers.

A weekly reporting period could be a useful tool in increasing the committees' ability to maintain compliance with the orders and could also help generate data that could be used later to determine trends in the industry. In addition, a weekly reporting date is consistent with the requirement for handlers to report weekly on their shipments of oranges. As to processors selecting another reporting date, it could happen that each by-products manufacturer would require a different reporting date. Thus, some processors would have a reporting date on Thursday, others on Friday, or any other day of the week. This could cause the committees difficulty in compliance as it would be difficult to compare handler reports with processor reports. In addition, a review of the committees' minutes relative to this issue demonstrates support for a weekly reporting period. Therefore, a reporting period and date similar to that required of handlers is deemed necessary in order to effectively utilize this information to enforce compliance. However, if the Thursday reporting period ending date proves unfeasible, the committees may recommend another reporting period ending date for approval by the Secretary.

Therefore, paragraph (c) of §§ 907.131 and 908.311 is revised as published in the March 14, 1990, proposed rule to require processors to submit a new report, N.O.A.C./V.O.A.C. Forms No. 38, to the appropriate committee.

Finally, the Department has revised §§ 907.131 and 908.131 of the rules and regulations of the navel and Valencia orange marketing orders to provide gender neutral language.

The committees' comment also suggested several minor changes, two of which were due to misprints in the Federal Register. In the March 14, 1990, proposed rule, "applicant" was inadvertently substituted for "application" in paragraph (b)(2) of § 907.131. In addition, "act" was inadvertently substituted for "part" in paragraph (b)(2)(vi) of § 907.131. This final rule reflects the correct language as proposed by the committees.

Foothill and FAIR commented that the committees' recommendations were submitted by the committees without benefit of public meetings to discuss the proposals and, further, handlers, processors, and the general public did not have any opportunity to comment on the proposals and that the rule should not be implemented.

The committees met on May 23, June 6, and July 18, 1989, to discuss these recommendations. These meetings were open to the public. The proposed rule, which was published in the March 14, 1990, issue of the Federal Register, notified by-products manufacturers, handlers, growers and the general public of the proposed changes and offered a 30-day comment period. Therefore, FAIR's and Foothill's comments are denied.

Foothill's and FAIR's comments also objected to volume regulations in general. However, the proposed rule does not address volume regulations, and, therefore, their comments concerning this subject are not discussed in this final rule.

FAIR stated that the committees should not be allowed to approve initial by-products applications and to remove or suspend processors from the approved list as most of the committee members have financial interests in processing plants. The committees are composed of growers and handlers, nominated by growers and handlers, and selected by the Secretary. Under the oversight of the Department, the committees perform their duties in an equitable and fair manner, applying objective criteria. Thus, this comment is without merit.

This final rule will also apply to all processors currently on the committees' approved lists of by-products manufacturers. On and after the effective date of this rule, new applicants should apply on N.O.A.C./V.O.A.C. Forms No. 14. Processors already on the approved lists on the effective date of this rule will be required to reapply using these forms. However, such processors will remain on the approved lists for 60 days after the effective date of the rule in order to allow the committees to investigate and review all the reapplications without unnecessary operational disruptions. During the 60-day period, such processors will be required to comply with the other new by-products regulations (paragraphs (a), (b)(3), (c), and (d) of §§ 907.131 and 908.131).

Therefore, except as noted above, the comments are denied.

Based on available information, the Administrator of the AMS has determined that issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the comments received, and other available information, it is found that the amendment of §§ 907.131 and 908.131, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 907

Marketing agreements, Oranges, and Reporting and recordkeeping requirements.

List of Subjects in 7 CFR Part 908

Marketing agreements, Oranges, and Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 907 and 908 are amended as follows:

1. The authority citation for 7 CFR parts 907 and 908 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Subpart—Rules and Regulations

2. Section 907.131 is revised to read as follows:

§ 907.131 By-product oranges.

(a) *Notice to committee.* No person shall handle oranges for commercial processing into by-products unless (1)

such oranges are, or have been, handled pursuant to an allotment therefor; or (2) the processor is an approved by-products manufacturer, as prescribed in paragraph (b) of this section. For the purposes of this section, "processing into by-products" means that such oranges are altered in form through such means as freezing, canning, dehydrating, pulping, slicing, dicing, peeling, juicing, or heating of the product, or is used for animal feeding purposes.

(b) *Approved by-products manufacturer.* (1) Except as provided in paragraph (b)(4) of this section, any person who desires to acquire oranges as an approved by-products manufacturer for commercial processing into by-products exempt from regulation pursuant to § 907.67(b) must first apply to and obtain approval from the committee. Applicants for such exemption shall submit to the committee an application on N.O.A.C. Form No. 14 containing the following information.

(i) The name and address of the applicant;

(ii) The proposed type of by-product(s) to be made or derived from oranges;

(iii) The approximate quantity of oranges to be used annually;

(iv) A description of the by-product(s) to be manufactured, the equipment to be used in manufacturing such by-products, and the capacity per hour thereof;

(v) The intended disposition of unused components of the oranges;

(vi) A statement describing the manner in which the by-product(s) will be sold, whether at wholesale, retail, or both, with a projection of the percentages to be sold in each outlet;

(vii) A statement whether orange juice will be pasteurized and, if so, a description of the manner in which such pasteurization will be accomplished;

(viii) The location of the plant(s);

(ix) A statement that the oranges acquired will be used for by-products manufacturing only and will not be resold or disposed of in fresh fruit channels;

(x) An agreement to submit such reports as may be required by the committee; and

(xi) An agreement to allow inspection of the by-products manufacturers' facilities immediately upon request during reasonable business hours.

(2) Such application shall be referred to the committee's Compliance Department for investigation, which includes an inspection of the by-products manufacturers' facilities, and reported to the committee. The committee shall approve the application if it determines that:

(i) The applicant's by-products facility's principal occupation is manufacturing food by-products, including orange by-products, except those applicants providing oranges or by-products for animal feeding purposes;

(ii) All orange by-products, other than by-products used for animal feeding, will be sold at wholesale except that not more than 5 percent of such by-product sales shall result from retail sales;

(iii) The applicant has agreed to submit such reports as may be required by the committee;

(iv) The applicant has agreed to permit inspections of all facilities immediately upon request during reasonable business hours;

(v) The oranges obtained under this exemption will not be resold or disposed of in fresh fruit channels; and

(vi) Approval of the application will not be contrary to the purposes of this part.

If an application is denied, the committee shall within a reasonable time inform the applicant in writing of the facts and reasons therefor, and afford the applicant an opportunity, either orally or in writing, to present opposing facts and reasons. If the application is approved, the applicant's name shall be placed on the list of approved by-products manufacturers. The applicant shall be informed of the committee's determination in a timely manner.

(3) A commercial processor on the list of approved by-products manufacturers who:

(i) Fails to commercially process oranges into by-products for a period of one year or more;

(ii) Sells or otherwise disposes of more than 5 percent of orange by-products, other than by-products used for animal feeding, at the retail level;

(iii) Sells or otherwise disposes of oranges obtained under this exemption in fresh fruit channels;

(iv) Fails to permit inspection of facilities immediately upon request, during reasonable business hours;

(v) Fails to disclose the origin of all oranges that are acquired by timely submitting N.O.A.C. Form No. 38;

(vi) Fails to confirm receipt of oranges obtained under this exemption by submitting copies of N.O.A.C. Form No. 15 with the actual net weight or number of cartons received recorded thereon; or

(vii) Fails or refuses to submit such other reports required by the committee, may be determined by the committee to be ineligible to acquire oranges under this exemption, and the committee may suspend or remove its name from the list of approved by-products manufacturers for such time as the committee deems appropriate under the circumstances. Prior to making such determination, the committee shall give the processor reasonable advance notice in writing of its intention and the facts and reasons therefor and afford the processor an opportunity, either orally or in writing, to present opposing facts and reasons. After a processor's name has been removed from the list of approved by-products manufacturers, it must submit a new application and secure approval of the committee in order to acquire oranges pursuant to § 907.67(b).

(4) Any processor on the list of approved by-products manufacturers on December 6, 1990, shall be required to submit a new application in accord with paragraphs (a), (b) (1) and (2) of this section, but shall automatically remain on the list until February 4, 1991. However, from December 6, 1990 through February 4, 1991, paragraphs (a), (b)(3), (c), and (d) of this section shall be applicable to such processors.

(c) *Certification by by-products manufacturers.* During each crop year, from the date on which oranges are first received for processing through the final date of processing for such crop year, each approved by-products manufacturer shall submit, on N.O.A.C. Form No. 38, a report of its operations during the reporting period. Such report shall contain information as to the quantity and source of oranges including any oranges grown outside of the production area received for processing and as to the quantity of each type of by-product produced from such oranges. The report shall be submitted weekly. It shall be submitted to the committee no later than seventy-two (72) hours following the end of the period covered by the report with each reporting period ending on a Thursday. Each report shall contain a certification to the United States Department of Agriculture and to the committee as to the truthfulness of the information therein.

(d) *Orange diversion report.* Each handler shall, with respect to each quantity of oranges diverted for commercial processing into by-products to charitable organizations, or eliminated from the channels of human consumption, report to the committee, on N.O.A.C. Form No. 15:

(1) The name and address of the by-products plant or charitable organization to which the oranges were diverted;

(2) The district in which the oranges were produced;

(3) The respective quantities of oranges in terms of the number of cartons (i) diverted to by-products, (ii)

diverted to charitable organizations, and (iii) eliminated;

(4) The net weight of such oranges; and

(5) If oranges were eliminated, the place and means of elimination.

This report shall be prepared in quadruplicate. One copy signed by the handler shall be submitted to the committee promptly upon the diversion or elimination of the oranges covered thereby. One copy may be retained by the handler, and two copies shall be forwarded by the handler to the by-products manufacturer or charitable organization with the understanding that the by-products manufacturer or charitable organization will record, on one copy thereof, the actual net weight or number of cartons of oranges received, and forward such copy to the committee.

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Subpart—Rules and Regulations

3. Section 908.131 is revised to read as follows:

§ 908.131 By-product oranges.

(a) *Notice to committee.* No person shall handle oranges for commercial processing into by-products unless (1) such oranges are, or have been, handled pursuant to an allotment therefor; or (2) the processor is an approved by-products manufacturer, as prescribed in paragraph (b) of this section. For the purposes of this section, "processing into by-products" means that such oranges are altered in form through such means as freezing, canning, dehydrating, pulping, slicing, dicing, peeling, juicing, or heating of the product, or is used for animal feeding purposes.

(b) *Approved by-products manufacturer.* (1) Except as provided in paragraph (b)(4) of this section, any person who desires to acquire oranges as an approved by-products manufacturer for commercial processing into by-products exempt from regulation pursuant to § 908.67(b) must first apply to and obtain approval from the committee. Applicants for such exemption shall submit to the committee an application on V.O.A.C. Form No.14 containing the following information:

(i) The name and address of the applicant;

(ii) The proposed type of by-product(s) to be made or derived from oranges;

(iii) The approximate quantity of oranges to be used annually;

(iv) A description of the by-product(s) to be manufactured, the equipment to be used in manufacturing such by-products, and the capacity per hour thereof;

(v) The intended disposition of unused components of the oranges;

(vi) A statement describing the manner in which the by-product(s) will be sold, whether at wholesale, retail, or both, with a projection of the percentages to be sold in each outlet;

(vii) A statement whether orange juice will be pasteurized and, if so, a description of the manner in which such pasteurization will be accomplished;

(viii) The location of the plant(s);

(ix) A statement that the oranges acquired will be used for by-products manufacturing only and will not be resold or disposed of in fresh fruit channels;

(x) An agreement to submit such reports as may be required by the committee; and

(xi) An agreement to allow inspection of the by-products manufacturers' facilities immediately upon request during reasonable business hours.

(2) Such application shall be referred to the committee's Compliance Departemnt for investigation, which includes an inspection of the by-products manufacturers facilities, and reported to the committee. The committee shall approve the application if it determines that:

(i) The applicant's by-products facility's principal occupation is manufacturing food by-products, including orange by-products, except those applicants providing oranges or by-products for animal feeding purposes;

(ii) All orange by-products, other than by-products used for animal feeding, will be sold at wholesale except that not more than 5 percent of such by-product sales shall result from retail sales;

(iii) The applicant has agreed to submit such reports as may be required by the committee;

(iv) The applicant has agreed to permit inspections of all facilities immediately upon request during reasonable business hours;

(v) The oranges obtained under this exemption will not be resold or disposed of in fresh fruit channels; and

(vi) Approval of the application will not be contrary to the purposes of this part.

If an application is denied, the committee shall within a reasonable time inform the applicant in writing of the facts and reasons therefor, and afford the applicant in writing of the facts and reasons therefor, and afford the applicant an opportunity, either orally or in writing, to present opposing facts and reasons. If the application is approved, the applicant's name shall be placed on the list of approved by-products manufacturers. The applicant shall be informed of the committee's determination in a timely manner.

(3) A commercial processor on the list of approved by-products manufacturers who:

(i) Fails to commercially process oranges into by-products for a period of one year or more;

(ii) Sells or otherwise disposes of more than 5 percent of orange by-products, other than by-products used for animal feeding, at the retail level;

(iii) Sells or otherwise disposes of oranges obtained under this exemption in fresh fruit channels;

(iv) Fails to permit inspection of facilities immediately upon request, during reasonable business hours;

(v) Fails to disclose the origin of all oranges that are acquired by timely submitting V.O.A.C. Form No. 38;

(vi) Fails to confirm receipt of oranges obtained under this exemption by submitting copies of V.O.A.C. Form No. 15 with the actual net weight or number of cartons received recorded thereon; or

(vii) Fails or refuses to submit such other reports required by the committee; may be determined by the committee to be ineligible to acquire oranges under this exemption, and the committee may suspend or remove its name from the list of approved by-products manufacturers for such time as the committee deems appropriate under the circumstances. Prior to making such determination, the committee shall give the processor reasonable advance notice in writing of its intention and the facts and reasons therefor and afford the processor an oportunity, either orally or in writing, to present opposing facts and reasons. After a processor's name has been removed from the list of approved by-products manufacturers, it must submit a new application and secure approval of the committee in order to acquire oranges pursuant to § 908.67(b).

(4) Any processor on the list of approved by-products manufacturers on December 6, 1990 shall be required to submit a new application in accord with paragraphs (a), (b)(1) and (2) of this section, but shall automatically remain on the list until February 4, 1991. However, from December 6, 1990 through February 6, 1991, paragraphs (b)(3), (c), and (d) of this section shall be applicable to such processors.

(c) *Certification by by-products manufacturers.* During each crop year, from the date on which oranges are first

received for processing through the final date of processing for such crop year, each approved by-products manufacturer shall submit, on V.O.A.C. Form No. 38, a report of its operations during the reporting period. Such report shall contain information as to the quantity and source of oranges received for processing and as to the quantity of each type of by-product produced. The report shall be submitted weekly. It shall be submitted to the committee no later than seventy-two (72) hours following the end of the period covered by the report with each reporting period ending on a Thursday. Each report shall contain a certification to the United States Department of Agriculture and to the committee as to the truthfulness of the information therein.

(d) *Orange diversion report.* Each handler shall, with respect to each quantity of oranges diverted for commercial processing into by-products to charitable organizations, or eliminated from the channels of human consumption, report to the committee, on V.O.A.C. Form No. 15:

(1) The name and address of the by-products plant or charitable organization to which the oranges were diverted;

(2) The district in which the oranges were produced;

(3) The respective quantities of oranges in terms of the number of cartons (i) diverted to by-products, (ii) diverted to charitable organizations, and (iii) eliminated;

(4) The weight of such oranges; and

(5) If oranges were eliminated, the place and means of elimination. This report shall be prepared in quadruplicate. One copy signed by the handler shall be submitted to the committee promptly upon the diversion or elimination of the oranges covered thereby. One copy may be retained by the handler, and two copies shall be forwarded by the handler to the by-products manufacturer or charitable organization with the understanding that the by-products manufacturer or charitable organization will record, on one copy thereof, the actual net weight or number of cartons of oranges received, and forward such copy to the committee.

Dated: October 31, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-26157 Filed 11-5-90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-202-AD; Amdt. 39-6802]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300 series airplanes, which requires repetitive ground tests of the ram air turbines, and overhaul of the ram air turbine. This amendment is prompted by reports that, during ground and flight tests of the ram air turbine, the blades remained in the feathered pitch of initial spin-up, instead of progressively moving to the operating pitch, due to corrosion in the blade bearing and operating pin assembly. This condition, if not corrected, could result in failure of the ram air turbine system to provide hydraulic power in an emergency situation.

EFFECTIVE DATE: December 17, 1990.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 227-2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain Airbus Industrie Model A300 series airplanes, which requires repetitive ground tests of the ram air turbines (RAT) and overhaul of the ram air turbine, was published in the **Federal Register** on May 9, 1990 (55 FR 19269).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter stated that paragraph D. of the proposed rule would require that all of its RATs be overhauled within 3,000 hours of the effective date of the AD. The commenter requested that the compliance time be extended because there was no practical way to accomplish the overhaul within that time, since the vendor required 60 days per unit to perform the overhaul. The FAA does not concur that an extension is warranted. Paragraph D. requires that the RATs be overhauled prior to the later of (1) 20,000 hours or 10 years since new or overhauled, or (2) 12 months or 3,000 hours time-in-service after the effective date of the rule. The FAA considers that, especially in the case of the "oldest" RATs, 12 months is ample time for accomplishment of the overhaul, even with the 60-day lead time that is necessary for the vendor (as the commenter has indicated). The FAA has also determined that the compliance time, as proposed, represents the maximum interval of time allowable wherein the overhaul can reasonably be accomplished and an acceptable level of safety can be maintained.

The same commenter stated that the procedures described in Dowty Rotol Service Bulletin 29-125 R1 are terminating action for the French AD corresponding to the proposed rule. The commenter requested that the proposed rule be revised to include similar provisions for terminating action. The FAA partially concurs. The modification described in Dowty Rotol Service Bulletin 29-125 R1 is terminating action for the French AD, but only when the modifications specified in both Dowty Rotol Service Bulletins 29-76 and 29-101 have also been accomplished. The FAA concurs that accomplishment of the procedures specified in all three of these Dowty Rotol service bulletins constitutes terminating action and has revised the final rule to include a new paragraph to indicate this.

A second commenter requested that the interval for repetitive ground tests be increased to 3,800 flight hours or 15 months so that it could be accomplished during a regularly scheduled "C" check. The FAA does not concur. The FAA has determined that the established intervals are the maximum allowable limits that will ensure continued safe operation. However, under the provisions of paragraph F. of the final rule, an operator may apply for an extension of the compliance periods as an alternate means of compliance if that operator can provide data to justify that longer limits would not adversely impact safety.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the change

noted above. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

It is estimated that 66 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 manhour per airplane to accomplish the ram air test, and that the average labor cost will be $40 per manhour. The estimated cost for overhauling the RAT is approximately $35,000 per unit. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,312,640.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 series airplanes, Serial Numbers 001 through 305, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent failure of the ram air turbine system to provide hydraulic power in an emergency situation, accomplish the following:

A. For ram air turbines on which neither modification No. RM 370 (Dowty Rotol Service Bulletin 29–76) nor modification No. RM 401 (Dowty Rotol Service Bulletin 29–104) has been accomplished; or on which one, but not both, of those modifications has been accomplished: Perform a ground test of the ram air turbines, in accordance with Dowty Rotol Service Bulletin 29–124, Revision 3, dated March 29, 1989, as follows:

1. Prior to a. or b., below, whichever occurs later:

a. 4,000 hours time-in-service or 24 months since new or overhaul, whichever occurs first, or

b. 600 hours time-in-service or 6 months after the effective date of this AD, whichever occurs first.

2. Repeat the ground test at intervals not to exceed 600 hours time-in-service or 6 months, whichever occurs first.

B. For ram air turbines on which both modification No. RM 370 (Dowty Rotol Service Bulletin 29–76) and modification No. RM 401 (Dowth Rotol Service Bulletin No. 29–104) have been accomplished: Perform a ground test of the ram air turbines, in accordance with Dowty Rotol Service Bulletin 29–124, Revision 3, dated March 29, 1989, as follows:

1. Prior to a. or b., below, whichever occurs later:

a. 7,500 hours time-in-service or 30 months since new or overhaul, whichever occurs first, or

b. 1,500 hours time-in-service or 6 months after the effective date of this AD, whichever occurs first.

2. Repeat the ground test at intervals not to exceed 3,000 hours time-in-service or 12 months, whichever occurs first.

C. If the ram air turbine fails to function properly during the ground tests required by paragraphs A. or B. of this AD, prior to further flight, replace with a serviceable unit, or overhaul the unit, in accordance with Dowty Rotol Overhaul Manual 29–21–24.

D. Prior to 1. or 2., below, whichever occurs later, perform an overhaul of the ram air turbine system in accordance with Dowty Rotol overhaul manual 29–21–24:

1. 20,000 hours time-in-service or 10 years since new or overhauled, whichever occurs first, or

2. 12 months or 3,000 hours time-in-service after the effective date of the AD, whichever occurs first.

E. Accomplishment of the modifications described in all three Dowty Rotol Service Bulletins 29–125 R1, 29–76, and 29–101 constitutes terminating action for the requirements of this AD.

F. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM–113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM–113.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective December 17, 1990.

Issued in Renton, Washington, on October 29, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–26169 Filed 11–5–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90–NM–202–AD; Amdt. 39–6792]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which currently requires a one-time inspection of the two landing gear selector valve installations, and correction of improper configurations, if necessary. This amendment expands the applicability to add one additional airplane and revises the source for service information to reflect the latest version of the manufacturer's service bulletin. This amendment is prompted by a determination that the referenced service bulletin specifies incorrect torque values and that the applicability statement omitted one airplane. This condition, if not corrected, could result in partial gear-up or all gear-up landing incidents.

EFFECTIVE DATE: November 12, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest

Mountain Region, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. David Herron, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S; telephone (206) 227-2672. Mailing address: FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: On September 7, 1990, the FAA issued AD 90-19-10, Amendment 39-6743 (55 FR 37856, September 14, 1990) to require a one time inspection of the two landing gear selector valve installations, and correction of improper configurations, if necessary. That action was prompted by a recent incident in which a Boeing Model 747-400 series airplane made a partial gear up landing with the two body gear and the nose gear retracted. Ground investigation determined that the crew was unable to extend the nose and body gear due to a missing bolt and nut in the mechanical linkage between the nose and body gear selector valve and the selector valve input quadrant. This also prevented alternative extension due to hydraulic pressure being applied continuously to the gear up ports of the affected gear retract actuators. Further investigation revealed that the attachment nut of the input crank mechanism to the wing gear selector valve was also missing; however, the bolt was in place. This condition, if not corrected, could result in partial gear-up or all gear-up landings.

Since issuance of that AD, the manufacturer has informed the FAA that (1) airplane line position 806 was delivered to a customer without the selector valve installation inspected and needed to be added to the applicability list; (2) the selector valve installation torque value for the self locking nut should be 50 to 80 inch-pounds in lieu of 30 to 50 inch-pounds, as specified in Boeing Service Bulletin 747-32-2361, dated September 7, 1990; and (3) a variable grip length bolt should be listed in the stated service bulletin as an optional part number. Revision 1 of the Boeing Telegraphic Service Bulletin 747-32-2361, dated September 28, 1990, includes these changes.

The FAA has reviewed and approved Boeing Telegraphic Service Bulletin 747-32-2361, Revision 1, dated September 28, 1990, which describes the procedures for a one-time inspection and correction of any improper configurations, if necessary, of the nose/body and wing landing gear selector valve installations. This revised service bulletin adds one airplane to the applicability, corrects the torque values for the selector valve installation, and provides for use of a variable grip length bolt.

Since this condition is likely to exist on other airplanes of the same type design, this AD expands the applicability for a one-time inspection of the landing gear selector valve installations, and correction of any improper configurations, if necessary, in accordance with the service bulletin previously described. Additionally, this amendment incorporates new service information provided by the revised service bulletin.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-6743 (55 FR 37856), AD 90-19-10, with the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, line position 002 through 803, and 806 certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent partial gear-up or all gear-up landings, accomplish the following:

A. For airplanes, line position 002 through 803: Within 30 days of October 30, 1990 (the effective date of AD 90-19-10, Amendment 39-6743), inspect the nose and body gear selector valve installation and the wing gear selector valve installation in accordance with Boeing Service Bulletin 747-32-2361, dated September 7, 1990.

1. Prior to further flight, correct any discrepancies found in the installation, in accordance with Boeing Service Bulletin 747-32-2361, dated September 7, 1990, or Boeing Telegraphic Service Bulletin 747-32-2361, Revision 1, dated September 28, 1990.

2. Within 30 days after the effective date of this AD, for airplanes that have had discrepancies corrected in accordance with paragraph A.1. of this AD, retorque the self locking nut to 50 to 80 inch-pounds, in accordance with Boeing Telegraphic Service Bulletin 747-32-2361, Revision 1, dated September 28, 1990.

B. For airplane, line position 806: Within 30 days after the effective date of this AD, inspect the nose and body gear selector valve installation and the wing gear selector valve installation in accordance with Boeing Telegraphic Service Bulletin 747-32-2361, Revision 1, dated September 28, 1990. Correct any discrepancies found in the installation prior to further flight, in accordance with Boeing Telegraphic Service Bulletin 747-32-2361, Revision 1, dated September 28, 1990.

C. Within 10 days after completion of the inspection required by this AD, submit a report of finding any improper configuration to the FAA, Seattle Manufacturing Inspection District Office, ANM-108S, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The report must include the line number of the airplane inspected, the number of cycles, and the inspection findings.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager,

Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Inspector (PI), who will either concur or comment, and then send it to the Manager, Seattle Aircraft Certification Office.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to The Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment supersedes Amendment 39-6743, AD 90-19-10.

This amendment becomes effective November 12, 1990.

Issued in Renton, Washington, October 22, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26165 Filed 11-5-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-134-AD; Amendment 39-6799]

Airworthiness Directives: Boeing Model 737-300 and 737-400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD); applicable to all Model 737-400 series airplanes, which currently requires modification of the auxiliary power unit (APU) instrumentation wiring. That action was prompted by reports that the APU exhaust gas temperature (EGT) indication incorrectly read "zero" following an APU shutdown, including an APU shutdown associated with an aborted APU start. This condition, if not corrected, could result in undetected overtemperature damage to the APU rotor structure, which could then result in rotor failure and possible structural damage to the airplane. This action requires the same APU modification on certain Boeing 737-300 series airplanes, since these airplanes may exhibit the same operational deficiency.

EFFECTIVE DATE: December 11, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Bray, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S; telephone (206) 227-2681. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 90-09-05, Amendment 39-6583 (55 FR 15220, April 23, 1990), applicable to Boeing Model 737-300 and -400 series airplanes, to require modification of the APU EGT instrumentation was published in the Federal Register on July 19, 1990 (55 FR 29381).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the only comment received.

The Air Transport Association (ATA) of America, on behalf of its members, expressed no objection to the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 823 Model 737-300 and -400 series airplanes of the affected design in the worldwide fleet. It is estimated that 380 airplanes of U.S. registry will be affected by this AD, that it will take approximately 9 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The cost of modification parts is considered negligible. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $136,800.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-6583 (55 FR 15220, April 23, 1990), AD 90-09-05, with the following new airworthiness directive:

Boeing: Applies to Model 737-300 and 737-400 series airplanes, listed in Boeing Service Bulletin 737-49-1071, dated May 10, 1990, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent auxiliary power unit (APU) rotor failure resulting from an undetected EGT overtemperature condition, accomplish the following:

A. For Model 737-400 series airplanes: Within 1,000 hours time-in-service after May 29, 1990 (the effective date of Amendment 39-6583, AD 90-09-05), modify the APU instrumentation wiring in a manner that will assure continuous flight-compartment APU exhaust gas temperature (EGT) indication following a shutdown. The modification must be accomplished in a manner approved by the Manager, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate; or in accordance with Boeing Service Bulletin 737-49-1071, dated May 10, 1990.

B. For Model 737-300 series airplanes: Within 1,000 hours time-in-service after the effective date of this amendment, modify the APU instrumentation wiring in accordance with Boeing Service Bulletin 737-49-1071, dated May 10, 1990.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager,

Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment supersedes Amendment 39-6583, AD 90-09-05.

This amendment becomes effective December 11, 1990.

Issued in Renton, Washington, on October 25, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26171 Filed 11-5-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-110-AD; Amendment 39-6801]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which currently requires inspection of the fuselage skin lap splice between body station (BS) 340 and BS 400 at stringers (S)-6L and S-6R, and repair, if necessary. This action deletes the option of reinspecting known small cracks in lieu of repairing them before further flight, and reduces the repetitive inspection interval. This amendment is prompted by further FAA consideration of the crack repair deferral option in the existing AD, and analysis results which indicate that a reduction of the inspection interval is warranted. This condition, if not corrected, could result in sudden loss of cabin pressurization and the inability of the fuselage to withstand failsafe loads.

EFFECTIVE DATE: December 11, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Steven C. Fox, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2777. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 85-17-05, Amendment 39-5123 (50 FR 3335, August 19, 1985), applicable to Boeing Model 747 series airplanes, to require inspection of the fuselage skin lap splice between body station (BS) 340 and BS 400 at stringers S-6L and S-6R, and repair, if necessary, was published in the **Federal Register** on June 28, 1990 (55 FR 28219).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

A foreign operator of Boeing Model 747 airplanes and the manufacturer commented that the rule should be revised to reflect that flights with pressurization of 1.5 psi or below need not be counted as flight cycles and that a 1.2 adjustment factor be used for the initial and repetitive inspections for Boeing Model 747SR airplanes based on continued mixed operation at lower cabin pressure differentials. The FAA concurs and the final rule has been revised by adding two new paragraphs, C. and D., to specify that flights with cabin pressure differentials of 1.5 psi or below need not be counted as flight cycles, and that a 1.2 adjustment factor may be used for the initial and repetitive inspections for Boeing Model 747SR airplanes based on continued mixed operation at lower cabin pressure. (These factors have been included in similar AD's previously issued.)

One Air Transport Association (ATA) of America member operator requested that the proposed initial inspection period be increased from 250 landings to 1,000 landings so that this inspection could be accomplished at a scheduled C-check. The FAA does not concur. The intent of this rule was to reduce the inspection interval from 5,000 to 3,000 flight cycles, based on the 747 Aging Fleet Structures Working Group's recommendation. The 250 landings initial inspection was based on allowing the maximum credit (2,750 cycles) from the time the last previous inspection required by AD 85-17-05 was accomplished.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described above. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the rule.

There are approximately 603 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 191 airplanes of U.S. registry would be affected by this AD, that it would take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $61,120.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding AD 85-17-05, Amendment 39-5123 (50 FR 3335, August 19, 1985), with the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, identified in Boeing Service Bulletin 747-53-2253, Revision 2, dated March 29, 1990, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent sudden loss of cabin pressurization and the inability to withstand fail-safe loads, accomplish the following:

A. For airplanes that have not been modified in accordance with Boeing Service Bulletin 747-53-2253, Revision 2, dated March 29, 1990: In accordance with the schedule indicated below, perform a high frequency eddy current inspection of the fuselage lap joint for cracks between body station (BS) 340 and BS 400, or aft as far as the crew door, at stringer (S)-6L and S-6R, in accordance with Boeing Service Bulletin 747-53-2253, Revision 2, dated March 29, 1990.

1. Inspection schedule:

a. Unless previously accomplished within the last 2,750 landings, perform the initial inspection within the next 250 landings after the effective date of this AD, or prior to the accumulation of 10,000 landings, whichever occurs later.

b. Repeat the inspection thereafter at intervals not to exceed 3,000 landings.

2. If cracks are found, repair prior to further flight, in accordance with Boeing Service Bulletin 747-53-2253, Revision 2, dated March 29, 1990.

B. For airplanes that have been modified in accordance with Boeing Service Bulletin 747-53-2253, Revision 2, dated March 29, 1990: In accordance with the schedule below, perform a high frequency eddy current inspection of the fuselage lap joint for cracks between BS 340 and BS 400, or aft as far as the crew door, at stringers (S)-6L and S-6R, in accordance with Boeing Service Bulletin 747-53-2253, Revision 2, dated March 29, 1990.

1. Inspection schedule:

a. Unless previously accomplished within the last 2,750 landings, perform the initial inspection within the next 250 landings after the effective date of this AD, or prior to the accumulation of 10,000 landings after the modification, whichever occurs later.

b. Repeat the inspection thereafter at intervals not to exceed 3,000 landings.

2. If cracks are found, repair prior to further flight, in accordance with Boeing Service Bulletin 747-53-2253, Revision 2, dated March 29, 1990.

C. For purposes of complying with this AD, the number of landings may be determined to be equal to the number of pressurization cycles where the cabin pressure differential was greater than 1.5 psi.

D. For Model 747SR airplanes only: Based on a continued mixed operation of lower cabin differentials, the initial inspection thresholds and the repetitive inspection intervals specified in this AD may be multiplied by a 1.2 adjustment factor.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective December 11, 1990.

Issued in Renton, Washington, on October 25, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26170 Filed 11-5-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-122-AD; Amendment 39-6800]

Airworthiness Directives; British Aerospace Model DH.125-1A Series Airplanes, Equipped with Hawker Siddeley Dynamics Air Conditioning System and Rolls Royce Viper Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model DH.125-1A series airplanes, which requires a one-time detailed visual inspection to detect damage in the rear pressure bulkhead, a subsequent dye penetrant inspection and dial indicator measurement to determine the extent of damage, and repair, if necessary; and an adjustment of the clearance between the air conditioning duct clamp and the rear pressure bulkhead. This amendment is prompted by reports of chafing between the air conditioning duct and the rear pressure bulkhead. This condition, if not corrected, could lead to rupture of the rear pressure bulkhead and subsequent rapid decompression of the airplane.

EFFECTIVE DATE: December 11, 1990.

ADDRESSES: The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue,SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain British Aerospace Model DH.125-1A series airplanes, which requires a one-time detailed visual inspection to detect damage in the rear pressure bulkhead, a subsequent dye penetrant inspection and dial indicator measurement to determine the extent of damage, and repair, if necessary; and an adjustment of the clearance between the air conditioning duct and rear pressure bulkhead, was published in the **Federal Register** on August 14, 1990 (55 FR 33128).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 3 airplanes of U.S. registry will be affected by this AD, that it will take approximately one manhour per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $120.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Applies to Model DH.125-1A series airplanes, equipped with Hawker Siddeley Dynamics Air Conditioning System and Rolls Royce Viper Engines, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent chafing between the air conditioning duct and the rear pressure bulkhead, and subsequent rapid decompression of the airplane, accomplish the following:

A. Within 30 days after the effective date of this AD, perform a detailed visual inspection for chafing on the aft face of the rear pressure bulkhead, in accordance with the Accomplishment Instructions of British Aerospace Service Bulletin 53-71, dated November 1, 1989.

B. If defects are found, prior to further flight, perform a dye penetrant inspection to detect cracks in the vicinity of the affected area; and perform a dial test indicator measurement to determine the depth of damage in the rear pressure bulkhead, in accordance with British Aerospace Service Bulletin 53-71, dated November 1, 1989.

1. If the damage to the rear pressure bulkhead is less than 0.003 inch deep, prior to further flight, carefully blend out, polish, and then restore protective treatment in accordance with the service bulletin.

2. If the damage to the rear pressure bulkhead is greater than 0.003 but less than 0.010 inch deep, within 100 landings, repair in accordance with appendix B of the service bulletin.

3. If the damage to the rear pressure bulkhead is greater than 0.010 inch deep, prior to further flight, repair in accordance with Appendix B of the Service Bulletin.

C. Within 30 days after the effective date of this AD, adjust the clearance between the air conditioning duct clamp and the rear pressure bulkhead so there is at least a ¾-inch clearance. This can be accomplished by rotating and adjusting the duct position.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

This amendment becomes effective December 11, 1990.

Issued in Renton, Washington, on October 25, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26172 Filed 11-5-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-219-AD; Amendment 39-6803]

Airworthiness Directives; Fokker Model F-28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F-28 Mark 0100 series airplanes, which require the installation of a placard in the cockpit, certain operational limitations and autopilot restrictions until the autopilot primary servomotors have been inspected to detect missing jumper wires, and replaced with modified units, if necessary. This amendment is prompted by reports of a potential failure situation in the automatic flight control augmentation system (AFCAS) servomotors due to two missing jumper wires. This condition, if not corrected, could result in loss of flight path control during automatic flight if another AFCAS single failure occurs.

EFFECTIVE DATE: November 26, 1990.

ADDRESSES: The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone (206) 227-2145. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: The Rijksluchtvaartdienst (RLD), which is the airworthiness authority of the Netherlands, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Fokker Model F-28 Mark 0100 series airplanes. There have been recent reports of a potential failure situation in the automatic flight control augmentation system (AFCAS) servomotors due to two missing jumper wires. This condition, if not corrected, could result in loss of flight path control during automatic flight if another AFCAS single failure occurs.

Fokker has issued Service Bulletin F100-22-021, dated August 22, 1990, which describes procedures for an interim action to impose certain operational limitations and autopilot restrictions. Fokker's long-term solution is a one-time inspection of the servomotors to detect any missing jumper wires, and replacement of the affected servomotor(s) with a modified unit, if necessary. The RLD has classified this service bulletin as mandatory, and has issued

Airworthiness Directive 069 addressing this subject.

This airplane model is manufactured in the Netherlands and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires the fabrication and installation of a placard in the cockpit, and an Airplane Flight Manual (AFM) revision which imposes certain operational limitations and autopilot restrictions. Subsequently, operators are required to inspect the autopilot primary servomotors to detect missing jumper wires, and replace affected servomotor(s) with a modified unit, if necessary, in accordance with the service bulletin previously described. Once the inspection/replacement has been accomplished, the placard and AFM revision may be removed.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Applies to Model F-28 Mark 0100 series airplanes, Serial Numbers 11244 through 11286, 11289, 11291 through 11293, 11295, 11297, 11300, 11303, 11306, 11308, 11310, 11312, and 11314, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent loss of flight path control during automatic flight, accomplish the following:

A. Within 5 days after the effective date of this AD, incorporate the following changes into the Limitation Section of the FAA approved Airplane Flight Manual. This may be accomplished by inserting a copy of this AD in the AFM.

1. *Section 2.01.01*—Delete the following statements if incorporated in the "Kinds of Operation" paragraph in this section.

—CAT II approach. Compliance with FAA AC 120-29 has been demonstrated.

—CAT IIIA approach. Compliance with FAA AC 120-28C has been demonstrated.

—Autoland. Compliance with FAA AC 20-57A has been demonstrated.

2. *Section 2.08.01*—

a. Delete the following paragraphs:

—Autopilot.

—CAT II Approach (AP Coupled Only).

—ILS Approach.

b. If a "GA MODE" paragraph is incorporated, delete the following text: "During approach, after land 2/3 is annunciated until 500 feet above ground level (AGL), certain autopilot (AP) monitors are not available. It is the pilot's responsibility to monitor the AP performance during this phase. In case of a go-around (GA) during this phase, the AP shall be disconnected before triggering the TOGA lever."

c. If an "Aircraft Equipment" paragraph is incorporated, this paragraph must be deleted.

d. The following limitations must be *added* to Section 2.08.01: "AUTOPILOT—The autopilot must not be used in the take-off mode. The autopilot must not be used below 1,500 feet AGL."

B. Within 5 days after the effective date of this AD fabricate a placard which states:

"The autopilot must not be used in the take-off mode. The autopilot must not be used below 1,500 feet AGL."

Install this placard in full view of the pilot in the cockpit.

C. Within 14 days after the effective date of this AD, perform an inspection of the autopilot primary servomotors in accordance with Fokker Service Bulletin F100-22-021, dated August 22, 1990. If the jumper wires are missing, prior to further flight, replace the affected servomotor with a modified unit, in accordance with the Fokker service bulletin.

Note: The Fokker service bulletin references Collins Alert Service Bulletin SVO-1000-22-A05, Revision 1, dated August 22, 1990, for additional instructions.

D. Following the inspection required by paragraph C. of this AD, and modification, if necessary, the changes to the flight manual and the placard required by paragraphs A. and B. of this AD may be removed.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective November 26, 1990.

Issued in Renton, Washington, on October 29, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26168 Filed 11-5-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-ANE-06; Amdt. 39-6754]

Airworthiness Directives; General Electric Co. (GE) CF6-50/-45 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to GE CF6-50/-45 series engines, which currently requires initial and repetitive inspections of the turbine mid-frame (TMF) case installed in GE CF6-50/-45 series engines. This amendment carries forth all existing AD 90-06-07 inspection requirements, except for the extension of repetitive inspection intervals for certain engines. This amendment is prompted by new field service data which indicates that certain inspection intervals can be extended.

DATES: Effective December 6, 1990.

The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of December 6, 1990.

ADDRESSES: The applicable service information may be obtained from the General Electric Company, Technical Publications Department, 1 Neumann Way, Cincinnati, Ohio 45215. This information may be examined at the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Marc Bouthillier, Engine Certification Branch, ANE-142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7085.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to supersede AD 90-06-07, Amendment 39-6449 (55 FR 8124, March 7, 1990), was published in the **Federal Register** on June 29, 1990 (55 FR 26703). The proposed amendment is to carry forth all existing AD 90-06-07 inspection requirements, except for the extension of repetitive inspection intervals for certain engines. The FAA has determined that new field service data indicates that certain inspection intervals can be extended.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received. One comment was received. The commenter suggested that since only the outer case assembly is inspected, it would be more accurate to refer to the part number of the case assembly instead of the module assembly. The FAA does not concur, due to the desire to be consistent with the "Effectivity" paragraph of the manufacturers inspection instructions, which refers to the TMF module assembly part numbers.

After review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 517 CF6-50/-45 series engines of the affected design in the domestic fleet. It is estimated that it would take one manhour per inspection to accomplish the required actions, that the average labor cost would be $40 per manhour, and that approximately 830 required inspections will be conducted annually. Based on these figures, the total cost impact of the AD on the domestic fleet is estimated to be $35,000 annually.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety and Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423, 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-6449 (55 FR 8124, March 7, 1990), AD 90-06-07 as follows:

General Electric Company: Applies to General Electric Company (GE) CF6-50/-45 series turbofan engines installed on, but not limited to, McDonnell-Douglas DC-10, Boeing 747, and Airbus A300 type aircraft.

Compliance is required as indicated, unless previously accomplished.

To prevent turbine mid-frame (TMF) cracks which can cause the release of hot gas, increased nacelle temperature, activation of the fire warning system, and an inflight shutdown, accomplish the following:

(a) Inspect the TMF, Part Numbers (P/N) 9128M52 and 9137M92 that do not incorporate GE CF6-50/-45 Service Bulletin (SB) 72-973 or 72-975, in accordance with GE CF6-50/-45 SB 72-957, Revision 2, dated January 9, 1990, as follows:

(1) Inspect TMF cases with 1,050 or greater cycles since new (CSN) on the effective date of this AD, at the next shop visit or prior to accumulating the next 450 cycles in service (CIS) after the effective date of this AD, whichever occurs first.

(2) Inspect TMF cases with less than 1,050 CSN on the effective date of this AD, prior to accumulating 1,500 CSN.

(3) Remove from service, prior to further flight, TMF cases which exceed the serviceable limits specified in Tables 1-4 inclusive of GE SB 72-957, Revision 2, dated January 9, 1990.

(4) Thereafter, for TMF cases used in CF6-50 engines, reinspect cases with no cracks or indications at intervals not to exceed 600 CIS since previous inspection. Reinspect TMF cases with cracks or indications in accordance with the schedules and limits specified in Tables 1-4 inclusive of GE SB 72-957, Revision 2, dated January 9, 1990.

(5) Thereafter, for TMF cases used exclusively in CF6-45 engines, reinspect cases with no cracks or indications at intervals not to exceed 750 CIS since previous inspection. Reinspect TMF cases with cracks or indications in accordance with the schedules and limits specified in Tables 1-4 inclusive of GE SB 72-957, Revision 2, dated January 9, 1990.

(b) Inspect the TMF, P/N 9128M52 and 9137M92 that incorporate GE CF6-50/-45 SB 72-973, Revision 1, dated April 20, 1990, in accordance with GE CF6-50/-45 SB 72-957, Revision 2, dated January 9, 1990 as follows:

(1) Inspect TMF cases prior to accumulating 6,000 CIS since incorporation of GE SB 72-973, Revision 1, dated April 20, 1990.

(2) Remove from service, prior to further flight, TMF cases which exceed the serviceable limits specified in Tables 1-4 inclusive of GE SB 72-957, Revision 2, dated January 9, 1990.

(3) Thereafter, for CF6-50/-45 engines, reinspect TMF cases with no cracks or indications at each engine shop visit, not to exceed 2,400 CIS since last inspection. Reinspect TMF cases with cracks or indications, in accordance with the schedules

and limits specified in Tables 1–4 inclusive of GE SB 72–957, Revision 2, dated January 9, 1990.

(c) Inspect the TMF, P/N 9128M52 and 9137M92 that incorporate GE CF6–50/–45 SB 72–975, dated December 11, 1989, in accordance with GE CF6–50/–45 SB 72–957, Revision 2, dated January 9, 1990, as follows:

(1) For TMF cases used in CF6–50 engines, inspect cases prior to accumulating 1,200 CIS since incorporation of GE SB 72–975, dated December 11, 1989. Thereafter, reinspect TMF cases with no cracks or indications at each engine shop visit, not to exceed 1,200 CIS since last inspection.

(2) For TMF cases used exclusively in CF6–45 engines, inspect cases prior to accumulating 1,500 CIS since incorporation of GE SB 72–975, dated December 11, 1989. Thereafter, reinspect TMF cases with no cracks or indications at each engine shop visit, not to exceed 1,500 CIS since last inspection.

(3) Remove from service, prior to further flight, TMF cases which exceed the serviceable limits specified in Tables 1–4 inclusive of GE SB 72–957, Revision 2, dated January 9, 1990.

(4) For CF6–50/–45 engines, reinspect TMF cases with cracks or indications in accordance with the schedules and limits specified in Tables 1–4 inclusive of GE SB 72–957, Revision 2, dated January 9, 1990.

(d) Inspections previously performed in accordance with AD 90–06–07, are considered to be in compliance with the corresponding requirements of this AD.

(e) For the purpose of this AD, shop visit is defined as the introduction of an engine into a shop for the conduct of engine maintenance.

(f) For the purpose of this AD, applicable limits are those limits associated with the highest engine rating under which the TMF case has operated.

(g) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(h) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance schedule specified in this AD may be approved by the Manager, Engine Certification Office, ANE–140, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

The initial and repetitive inspection program shall be done in accordance with the following GE documents:

Document	Page	Revision	Date
GE SB 72–957.	All	2	Jan. 9, 1990.
GE SB 72–973.	All	1	Apr. 20, 1990.
GE SB 72–975.	All	Original	Dec. 11, 1989.

This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the General Electric Company, Technical Publications Department, 1 Neumann Way, Cincinnati, Ohio 45215. Copies may be inspected at the Regional Rules Docket, Office of the Assistant Chief Counsel, New England Region, 12 New England Executive Park, room 311, Burlington, Massachusetts 01803, or at the Office of the **Federal Register**, 1100 L Street, NW., room 8301, Washington, DC 20591.

This amendment supersedes Amendment 39–6449, AD 90–06–07.

This amendment becomes effective December 6, 1990.

Issued in Burlington, Massachusetts, on September 13, 1990.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 90–26166 Filed 11–5–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–ASW–10; Amendment 39–6784]

Airworthiness Directives; McDonnell Douglas Helicopter Company (MDHC) Model 369D, 369E, and 369F/FF Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), which requires a one-time inspection of main rotor transmission cover attachment bolts and retaining nuts, and their removal and replacement with airworthy parts, if necessary, on MDHC Model 369D, 369E and 369F/FF series helicopters. This AD is needed to prevent failure of main rotor transmission cover containment bolts which could result in loss of control of the helicopter.

EFFECTIVE DATE: December 10, 1990.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Helicopter Company, 5000 E. McDowell Road, Attention: Publications Department, MS543/D213, Mesa, Arizona 85205, or may be examined at the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, 4400 Blue Mound Road, Room 158, Building 3B, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Roy McKinnon, Aerospace Engineer, ANM–143L, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425, telephone (213) 988–5247.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring a one-time inspection of main rotor transmission cover attachment bolts and retaining nuts and their removal and replacement with airworthy parts, if necessary, on MDHC Model 369D, E, and F/FF Series helicopters, was published in the **Federal Register** on June 28, 1990 (55 FR 26455).

The proposal was prompted by two reports of failures of the main rotor transmission cover, part number (P/N) 369D25174, attachment bolts. A bolt failure could result in the retaining nut falling into the ring gear of the transmission with subsequent loss of power to the main rotor and an unplanned autorotation. Since this condition is likely to exist or develop on other helicopters of the same type design, it was proposed to require a one-time inspection and replacement of parts, as necessary, to assure that certain bolts, manufactured by Air Industries, are not installed on MDHC Model 369 series helicopters.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received. Accordingly, the proposed amendment is adopted without change.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation involves approximately 64 helicopters and 165 transmissions, as identified by the manufacturer, with minimum cost to the operator because of warranty considerations. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

McDonnell Douglas Helicopter Company (MDHC): Amendment 39–6784. Docket Number 90–ASW–10.

Applicability: All MDHC Model 369D, 369E, and 369F/FF series helicopters certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent possible failure of the main rotor transmission drive assembly, which could result in loss of control of the helicopter, accomplish the following:

(a) Within the next 300 hours' time in service after the effective date of the AD or at the next annual inspection or the next time the transmission is removed, whichever occurs first, after the main rotor transmission is removed inspect the MS21250–04036 bolts which retain the debris cover, P/N 369D25174. Remove any bolts with the head inscription shown as unacceptable in Figure 1, and replace with MS21250–04038 bolts, which have a length of 2.887 ±0.010 inch.

Note: MDHC Service Information Notice (SIN) DN–166.1, EN–57.1, and SIN FN–45.1, dated March 14, 1990, or later revisions pertain to this subject.

(b) Inspect the thread protrusion of all bolts. Remove any bolt which does not protrude through the H14–4 nut for a length equivalent to two full threads (0.071 inch minimum), including the chamfer. Replace removed bolts with MS21250–04038 bolts. Torque the bolts to 50–70 inch pounds. Verify that the bolts protrude through the nut for a length equivalent to two full threads (0.071 inch minimum), including the chamfer. If more than four threads protrude through the nut, add AN960C416L or AN960C416 washers under the nut as required. Remove and reinstall parts in accordance with the manufacturer's instructions.

(c) Apply a white dot to the main transmission data plate to indicate that the transmission has been inspected and reworked in accordance with the manufacturer's instructions, and record compliance with this AD in the rotorcraft log book.

(d) In accordance with FAR §§ 21.197 and 21.199, flight is permitted to a base where the requirements of this AD may be accomplished.

BILLING CODE 4910–13–M

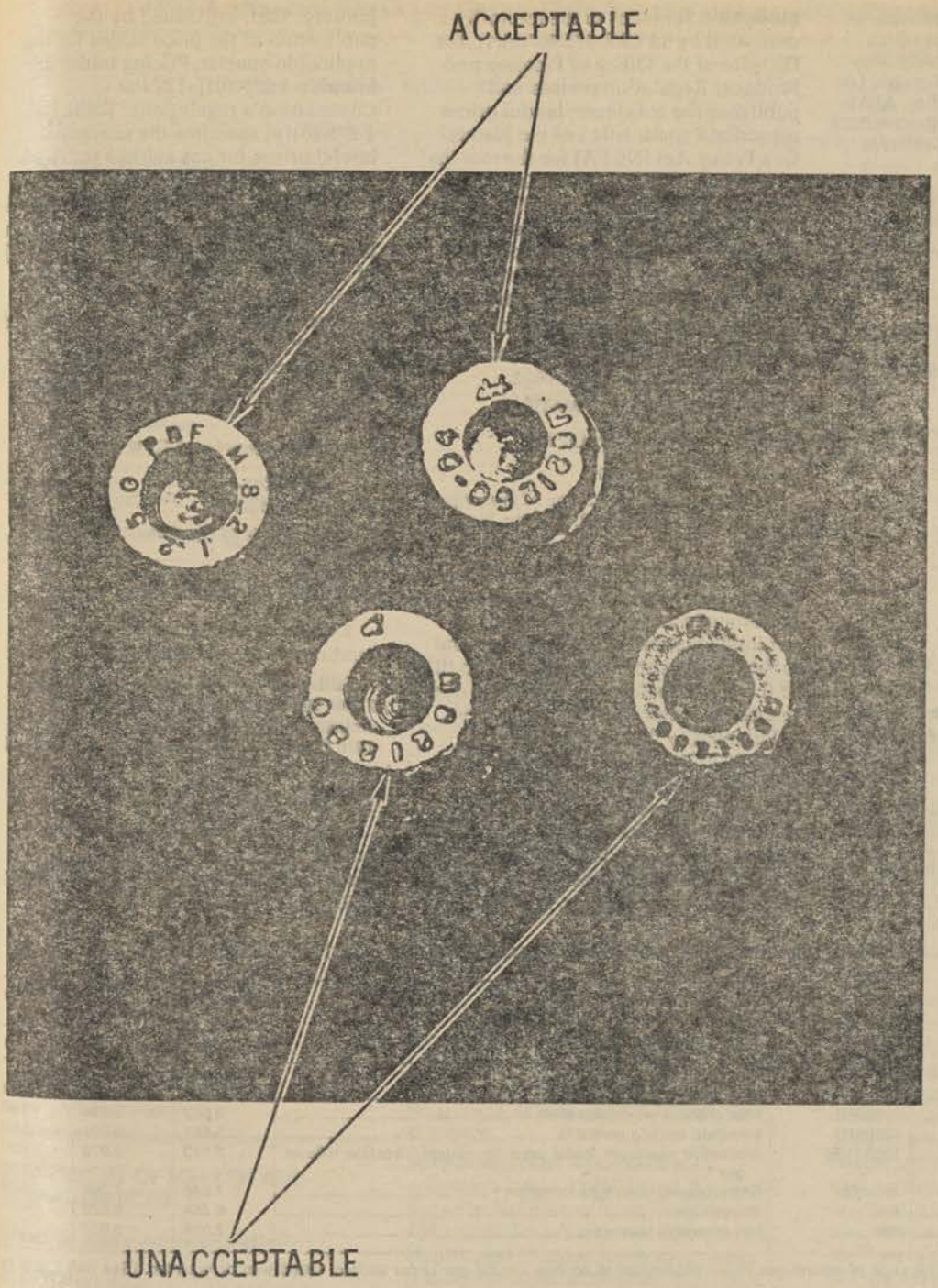

Figure 1. Inspection/Definition of Bolt Heads.

BILLING CODE 4910-13-C

(e) An alternate method of compliance or adjustment of the compliance time which provides an equivalent level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, ANM-100L, FAA, Northwest Mountain Region, 3229 East Spring Street, Long Beach, California 90806-2425.

Amendment 39-6784 becomes effective on December 10, 1990.

Issued in Fort Worth, Texas, on October 16, 1990.

Henry A. Armstrong,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 90-26167 Filed 11-5-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM80-53]

Maximum Lawful Price and Inflation Adjustments Under the Natural Gas Policy Act

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule; order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.307(c)(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under title I of the Natural Gas Policy Act (NGPA) for the months of November, December, 1990 and January, 1991. Section 101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: November 1, 1990.

FOR FURTHER INFORMATION CONTACT: Garry L. Penix, (202) 208-0622.

SUPPLEMENTARY INFORMATION:

Order of the Director, OPPR

Issued October 31, 1990

In the matter of Publication of Prescribed Maximum Lawful Prices Under the Natural Gas Policy Act of 1978.

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(c)(1) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of November, December, 1990 and January, 1991, are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103(b)(1), 105(b)(3), 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to November, 1990, are found in the tables in §§ 271.101 and 271.102.

List of Subjects in 18 CFR Part 271

Natural gas.

Kevin P. Madden,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

1. The authority citation for part 271 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717-717w; Department of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 3 CFR 1978 Comp., p. 142; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432.

§ 271.101 [Amended]

2. Section 271.101(a) is amended by adding the maximum lawful prices for November, December, 1990 and January, 1991, in Tables I and II.

TABLE I.—NATURAL GAS CEILING PRICES (OTHER THAN NGPA SECTIONS 104 AND 106(a))

Subpart of part 271	NGPA section	Category of gas	Maximum lawful price per MMBtu for Deliveries in—		
			Nov. 1990	Dec. 1990	Jan. 1991
B	102	New natural gas, certain OCS gas [1]	$5.868	$5.904	$5.940
C	103(b)(1)	New onshore production wells [2]	3.623	3.634	3.645
E	105(b)(3)	Intrastate existing contracts	5.567	5.597	5.627
F	106(b)1(B)	Alternative maximum lawful price for certain intrastate rollover gas [3].	2.073	2.079	2.085
G	107(c)(5)	Gas produced from tight formation [4]	7.246	7.268	7.290
H	108	Stripper gas	6.284	6.322	6.361
I	109	Not otherwise covered	2.998	3.007	3.016

[1] Commencing January 1, 1985, the price of natural gas finally determined to be new natural gas under section 102(c) was deregulated. (See part 272 of the Commission's regulations.)

[2] Commencing January 1, 1985, and July 1, 1987, the price of some natural gas finally determined to be natural gas produced from a new, onshore production well under section 103 was deregulated. (See part 272 of the Commission's regulations.) Thus, for all months succeeding June 1987 publication of a maximum lawful price per MMBtu under NGPA section 103(b)(2) is discontinued.

[3] Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this Table. This alternative Maximum Lawful Price for each month appears in this row of Table I. Commencing January 1, 1985, the price of some intrastate rollover gas was deregulated. (See part 272 of the Commission's regulations.)

[4] The maximum lawful price for tight formation gas is the lesser of the negotiated contract price or 200% of the price specified in subpart C of part 271. The incentive ceiling price does not apply to certain gas after May 12, 1990, as a result of Commission Order No. 519-A. (See § 271.703 of the Commission's regulations.)

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS (104 AND 106(a) (SUBPART D, PART 271)

Category of natural gas and type of sale or contract	Maximum lawful price per MMBtu for deliveries in—		
	Nov. 1990	Dec. 1990	Jan. 1991
Post-1974 gas: [2] All producers	$2.998	$3.007	3.016
1973–1947 Biennium gas:			
Small producer	2.529	2.536	2.543
Large producer	1.940	1.946	1.952
Interstate rollover gas: All producers	1.112	1.115	1.118
Replacement contract gas or recompletion gas:			
Small producer	1.425	1.429	1.433
Large producer	1.088	1.091	1.094
Flowing gas:			
Small Producer	0.718	0.720	0.722
Large producer	0.605	0.607	0.609
Certain Permian Basin gas:			
Small producer	0.847	0.849	0.852
Large producer	0.750	0.752	0.754
Certain Rocky Mountain gas:			
Small producer	0.847	0.849	00.852
Large producer	0.750	0.752	0.754
Certain Appalachian Basin gas:			
North subarea contracts dated after 10–7–69	0.684	0.686	0.688
Other contracts	0.634	0.636	0.638
Minimum rate gas: [1] All producers	0.372	0.373	0.374

[1] Prices for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.
[2] This price may also be applicable to other categories of gas (see §§ 271.402 and 271.602).

§ 271.102 [Amended]

3. Section 271.102(c) is amended by adding the inflation adjustment for the months of November, December, 1990 and January, 1991 in Table III.

TABLE III.—INFLATION ADJUSTMENT

Month of delivery	Factor by which price in preceding month is multiplied
1990	
November	1.00295
December	1.00295
1991	
January	1.00295

[FR Doc. 90–26146 Filed 11–5–90; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 422

RIN 0960–AC34

Social Security Number Cards

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: In these final regulations, we are amending our rules on issuing Social Security number (SSN) cards. We explain the role of the States in accepting applications for SSN cards from persons applying for or receiving welfare benefits and update our rules on applying for SSN cards outside the United States. We also discuss the role of the Immigration and Naturalization Service (INS) in accepting applications for SSN cards from aliens who have applied to legalize their status under the Immigration Reform and Control Act of 1986 (Pub. L. 99–603). Additionally, we are clarifying and updating our rules on the evidence an applicant, including a U.S. citizen, must submit in support of an application for an SSN card.

EFFECTIVE DATES: These rules are effective November 6, 1990.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Legal Assistant, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965–8471.

SUPPLEMENTARY INFORMATION:

Section 205(c)(2)(B)(iii)) of the Social Security Act (the Act) (42 U.S.C. 405(c)(2)(B)(iii) directs the Secretary of Health and Human Services to enter into agreements with State and local welfare agencies in order to carry out his duty to assure that SSNs will be assigned to appropriate individuals. We are, therefore, adding a provision to § 422.106 to indicate that the Social Security Administration (SSA) has entered into agreements with some States under which State employees may accept applications for SSN cards from persons applying for or receiving welfare benefits under a State-administered Federal program. The State employees are also authorized to certify the application to show that they have reviewed the required supporting evidence. This provision will codify a practice we have developed with individual States for the mutual benefit of applicants, SSA, and the States.

We are revising § 422.103 to explain that individuals outside the United States may apply for an SSN not only at the Department of Veterans Affairs Regional Office in Manila, but also at any U.S. foreign service post or at any U.S. military post outside the United States.

The amended rules also update our procedures for issuing SSN cards under section 205(c)(2)(B)(i) of the Act. That section requires the Secretary of Health and Human Services to assure that SSNs are assigned to aliens at the time of their lawful admission to the United States either for permanent residence, or under other authority permitting them to work, and to other aliens at such time as their status is changed to make it lawful for them to work. Under this authority, we are amending our current rules (§ 422.106) concerning the issuance of SSN cards.

In the amended § 422.106, we explain procedures, prompted by the Immigration Reform and Control Act of 1986 (IRCA) (Pub. L. 99–603), for assigning SSNs to aliens when they apply for lawful admission to the United States. Among other things, the IRCA established a program whereby an alien who showed continuous residence in the United States since January 1, 1982, or who met the requirements for special

agricultural workers, could legalize his or her status. The INS grants legalization applicants temporary authority to work as part of the legalization process. Pursuant to section 205(c)(2)(B)(iii) of the Act, SSA entered into an agreement with INS to facilitate the assignment of SSNs to the large number of aliens who applied to legalize their status and to assure that leglization applicants were assigned SSNs at the time their status changed to make it lawful for them to work. Under the agreement, INS employees accepted applications for SSN cards in the course of interviewing legalization applicants.

Although much of the legalization work and assigning SSNs to aliens has been completed, there are still some cases being processed. We are, therefore, revising § 422.106 of the regulations to reflect the role of INS in obtaining SSN applications in connection with the legalization process.

We are also revising our rules in § 422.107(c) of the regulations on annotating records of aliens. In the past, we have annotated records of aliens in order to report work activity to INS when earnings were reported to an SSN which had been issued for a nonwork purpose. These final rules provide that we may now also annotate records of aliens in order to report work activity to INS in cases where the SSN card had been originally issued for work purposes, but the work authority granted by the INS has expired or has been terminated by that agency.

Additionally, we are making minor changes to revise and clarify our rules on the evidence that must be provided by an applicant, including a U.S. citizen, in support of an SSN card application, and to update the explanation of how we process applications.

On September 30, 1988, proposed rules were published in the **Federal Register** at 53 FR 38302 with a 60-day comment period. We received comments from 14 organizations, 2 State officials, 2 county officials, and 2 individuals. We have responded to comments we received, including those that resulted in changes in the rules, as well as those that were not adopted. Several commenters addressed the same issue, and these comments are addressed together in the responses.

Discussion of Comments

Comment: The primary goal of State public assistance agencies is to pay benefits quickly, while SSA's goal in these regulations (§ 422.106(c)) is to maintain accurate records. Which goal should be favored?

Response: Some State welfare offices have been processing SSN card applications for several years and the evidence requirements have not changed since 1978. Generally, individuals who apply for State benefits have or can provide enough documentation which can be used to support their requests for SSN cards. Since States do not pay certain benefits until a number is provided or applied for, the SSN requirements must be met regardless of where the individual applies. Thus, there should be no delay in benefit payment simply because a State assisted with the SSN card application. These regulations are not intended to favor either a State's benefit program or SSA's process. Rather, they should complement each other.

Comment: Do these regulations prohibit State welfare agencies from using, for purposes of SSN card applications, the same kinds of evidence that are acceptable for public assistance purposes?

Response: The required review and verification of evidence documents is the same regardless of where the individual applies for an SSN card. States which agree to process SSN card applications are expected to follow the Federal rules on acceptable types of evidence. SSA provides to the States instructions similar to those used by SSA employees. These instructions explain which documents are acceptable. The commenter asked about a practice in one particular State whereby the State Department of Social and Health Services has direct terminal online access to birth records in the Bureau of Vital Statistics. Since the printout comes directly from the vital statistics data base and there are sufficient safeguards to prevent tampering and unauthorized use of the data base, SSA accepts it as sufficient evidence of age and citizenship.

Comment: Will States be required to institute quality control procedures for State agency certifications of applications for SSN?

Response: SSA does not require States to institute quality control procedures for State agency certification of SSN card applications. SSA does not expect State employees to follow the same guidelines SSA employees use when accepting applications and reviewing evidence.

Comment: Will States be reimbursed for the man-hours needed to process SSN card applications under these regulations?

Response: States usually agree to assist in taking SSN card applications only when it benefits them as well as the individuals involved. SSA does not reimburse States which volunteer to participate in this program because it is mutually beneficial.

Comment: How should State agencies handle complaints that delays attributed to these regulations are a hardship?

Response: This should not be an issue. Any delays caused by evidence verification would occur regardless of which agency handles the SSN card application. The process should actually benefit SSN card applicants because they can take care of both needs in a single visit to the State welfare office.

Comment: The former provision for providing a temporary SSN card should be retained in § 422.103(c) of the regulations and the term "reasonable time" in § 422.103(d) should be defined to ensure that an SSN card is available to a legalized alien at the same time that INS makes form I–688 (temporary residence card) available to him or her.

Response: The term "temporary card" referred to the SSA–5028 (Receipt for Application for a Social Security Number) which is a receipt to show that someone has applied for a card. Although this term has been deleted, § 422.103(c) still provides for the receipt process and states that "If the applicant requests evidence to show that he or she has filed an application for a Social Security number card, a receipt or equivalent document may be furnished." We changed the language of the regulation to reflect both our current process, which is to issue the manually completed SSA–5028 document or the SSA–2853 that is issued during the enumeration-at-birth process, and the process we may use in the future to issue electronically produced documents.

We have not defined the term "reasonable time" because the amount of time it will take us to issue an SSN card will vary according to the situation. In situations where INS accepts an application for an SSN card from an alien and sends the application to us pursuant to § 422.106(b), INS will generally receive the SSN card in about 2 weeks. Thus, the SSN card should be available when INS issues the I–688. Any delays in this process are usually caused because the electronic system we use rejected the application data sent to us by INS, requiring further investigation about the data, and the applicant either does not cooperate in providing the additional data we need, or does not respond timely to attempts to contact him or her about the matter.

Comment: The cross-reference in 20 CFR 422.105 should be 8 CFR 274a.12.

Response: We have made this correction.

Comment: The regulations should contain a statement that, under the limitation of section 245A(c)(5) of the Immigration and Nationality Act, as amended by section 201 of IRCA, SSA will not use the information given by the alien in connection with the legalization process for any purpose other than processing the form SS–5.

Response: Section 245A(c)(5) of the Immigration and Nationality Act directs the Attorney General and the Department of Justice not to use information provided pursuant to an application for legalization for any purpose other than to make a determination on such application. Regulatory authority for this provision lies with the Attorney General, not the Secretary of Health and Human Services. However, we will continue our efforts to assure that information we receive will not be disclosed in a manner contrary to applicable law.

Comment: Many aliens are not able to submit a birth record as evidence of age. Therefore, a document issued in accordance with INS regulations should be acceptable evidence of age.

Response: INS records are one of many alternative evidence documents which can be used for evidence of age when other preferred documents are not available. We have added a cross-reference to § 404.716, which provides a more extensive list of acceptable evidence of age.

Comment: Since many aliens do not have the identity documents listed in § 422.107(c) of the regulations, immigration documents should be acceptable evidence of identity for persons age 7 or older.

Response: We have added INS documents to the list of acceptable evidence of identity so that there is no doubt that such documents are acceptable.

Comment: Proposed § 422.107(e) states that our records may be annotated to show that an alien's authorizaton to work is temporary or subject to termination by INS. The commenter assumes that only SSA records will be annotated since annotations to the SSN card could result in frequent replacements. Another commenter suggests that we annotate SSN cards to reflect restricted employment authorization.

Response: Under current procedure, the assumption is correct. However, if Congress specifically provides funds for a project authorized under IRCA and recommended by the General Accounting Office, we plan to annotate certain SSN cards with a legend, indicating that the cards can be used only for work purposes with INS documents showing authorization to work. As required under IRCA, notice of any new legend will be published in the **Federal Register** and the new legend will not be used unless and until Congress provides funding for this change.

Comment: Proposed § 422.107(e) also states that we may annotate the record with other remarks. The commenter believes that this could extend to annotations on race, national origin, and other items irrelevant to assigning SSNs.

Response: This provision was added to the regulations to allow for any expanded documentation that may be needed in the future. We have not deleted the provision, since any future documentations we may make will be made only to the extent that they are consistent with applicable law.

Comment: The provision in § 422.107(e) that SSA may notify INS if earnings are reported for an alien whose work authorization has been terminated raises some concerns about the confidentiality provisions of IRCA and could lead to deportation proceedings. Therefore, legalized aliens should be expected from this policy.

Response: If an alien is legalized, there would be no reason to report his or her earnings to INS because the alien would have work authorization. We are retaining this provision because we could become aware of unauthorized work as a result of investigations not connected with IRCA.

Comment: If SSA does not issue an SSN card, the applicant should be notified in writing of the reasons for our action and advised that he or she may request formal administrative review of our action.

Response: Most of the time, nonissuance of an SSN card is the result of the applicant's failure to present the necessary evidence because he or she was unaware of the requirements. Our current policy is that we provide an applicant who is not issued an SSN card with either an oral or a written explanation of our action via form SSA L–676. Whether the explanation is done orally or in writing, we tell these applicants what additional evidence we need to issue an SSN card. Because the applicant can submit this additional evidence at any time at any SSA office and obtain an SSN card, we believe that there is no need for the applicant to submit a formal written request for administrative review. We are, however, implementing new procedures in this Department's Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin) which may subsequently be applied nationwide. Under the new procedures, whenever SSA is unable to assign an SSN, the applicant will receive a written notice explaining why a number could not be assigned, what additional evidence is required, and that a review of the evidence submitted may be requested.

Comment: The term "Subject to termination" in the proposed § 422.107(e) should be defined.

Response: We do not believe such a definition is necessary in these regulations because we rely on INS to determine when work authorization is temporary or subject to termination.

Comment: Because of the confidentiality provisions of IRCA, the regulations must describe the precise situations in which SSA will notify INS of earnings posted to Social Security accounts.

Response: We believe that § 422.107 provides this information and explains that the information we report to INS concerns aliens who were issued SSN cards for a nonwork purpose and those whose work authorization has expired.

Comment: The Internal Revenue Service (IRS) instructed illegal aliens, who are subject to Federal taxes, how to complete the space for an SSN on tax returns. Similar information should be in SSA's regulations, as should legal procedures which discourage illegal use of SSNs.

Response: We believe that § 422.107(e) goes far enough by providing that we will not issue an SSN card if the alien does not submit adequate documentation. Since IRS provides sufficient instructions to aliens about reporting their SSNs for tax purposes, placing such information in SSA regulations is unnecessary and inappropriate.

Comment: SSA should improve the durability of SSN cards by laminating them or otherwise making them more durable and waterproof.

Response: We believe that with reasonable care the current SSN card is very durable. This is evidenced by the fact that in most years most of the requests we receive for replacement cards are beause of name changes. We do not laminate cards because they contain certain security features which could not be detected satisfactorily under lamination. In accordance with section 205(c)(2)(F) of the Act, SSN cards are now made of banknote paper and, to the maximum extent practicable, they are made in a way that they cannot be counterfeited.

Comment: If a resident alien can apply for an SSN card for a non-resident dependent, it would be helpful for the regulations to specify the correct procedure, including a statement of

whether a personal interview is required.

Response: It is our policy that a U.S. resident may apply on behalf of a non-resident dependent who needs an SSN (*e.g.*, for tax purposes), except that an individual must apply for himself or herself when a personal interview is required. We have amended § 422.103(b) to reflect this policy.

Comment: Legalization applicants who cannot present a Form I–688A or other acceptable evidence of alien status as listed in SSA instructions are denied SSN cards and told to return to INS for proper identification. SSA should verify the validity of any document issued by INS and issue the alien a temporary card (receipt).

Response: Legalization applicants who have not received their form I–688A should have an I–689. If the I–689 authorizes work and the alien provides us with the other required evidence of age and identity, we will process an application for an SSN card. Our operating instructions concerning acceptable documents are based on INS guidelines. Whenever that agency's central office advises us that other documents are being issued, we revise our instructions. If an applicant gives us INS documents we are not familiar with, we refer the applicant back to that agency for additional documentation.

Comment: After INS has revised its regulations on the status of B–1 nonimmigrants (22 CFR 41.25), SSA should amend its operating instructions to permit issuance of unrestricted SSN cards to ministers who are not authorized to work but who are authorized to receive contributions for their support.

Response: SSA's instructions concerning acceptable evidence of employment authorization for unrestricted SSN cards are based on INS guidelines. That agency recently informed us that we could issue unrestricted cards to certain B–1 visa holders (personal and domestic employees and foreign airline employees), and we incorporated that change into our instructions. If that agency provides similar guidelines for ministers who are B–1 visa holders, we will revise our instructions accordingly.

Comment: The proposed regulation allows State employees to process SSN applications from welfare recipients. However, staff shortages and increased workloads make participation in the SSN application process impractical in some States unless Federal and State money is provided.

Response: Some States do not process SSN applications. These States refer clients to a Social Security office. Those States that do process SSN applications do so voluntarily because it is an advantageous procedure for administering the State's programs.

Comment: There is no need for a regulation on the role of the State in processing applications for SSNs from welfare recipients because SSA has terminated these agreements.

Response: SSA and some States have terminated their welfare enumeration agreement which authorized the State to accept and certify applications for SSNs. However, such agreements have not been terminated with all States.

Except as indicated above in our responses to the comments on the proposed rules, we are publishing the proposed rules essentially unchanged as final regulations.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because the regulations do not meet any of the threshold criteria for a major rule. These changes are expected to save the Federal Government $7 million each year. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only the issuing of SSN cards to individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These regulations contain reporting requirements in §§ 422.107 and 422.110. However, the Office of Management and Budget (OMB) approval of these regulations has already been obtained. The OMB approval number is 0960–0066.

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security-Disability Insurance; 13.803 Social Security-Retirement Insurance; 13–805, Social Security-Survivors Insurance)

List of Subjects in 20 CFR Part 422

Administrative practice and procedure; Freedom of information; Organization and functions (Government agencies); Social Security.

Dated: August 16, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: October 18, 1990.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, subpart B of part 422 of 20 CFR chapter III is amended as follows.

PART 422—ORGANIZATION AND PROCEDURES

1. An authority citation for subpart B is added to read as follows:

Authority: Sections 205 and 1102, Social Security Act (42 U.S.C. 405 and 1302).

2. Section 422.103 is revised to read as follows:

§ 422.103 Social security numbers.

(2) *General.* The Social Security Administration (SSA) maintains a record of the earnings reported for each individual assigned a social security number. The individual's name and social security number identify the record so that the wages or self-employment income reported for or by the individual can be properly posted to the individual's record. Additional procedures concerning social security numbers may be found in Internal Revenue Service, Department of the Treasury regulation 26 CFR 31.6011(b)–2.

(b) *Applying for a number*—(1) *Form SS–5.* An individual needing a social security number may apply for one by filing a signed form SS–5, "Application for A Social Security Number Card," at any social security office and submitting the required evidence. Upon request, the social security office may distribute a quantity of form SS–5 applications to labor unions, employers, or other representative organizations. An individual outside the United States may apply for a social security number card at the Department of Veterans Affairs Regional Office, Manila, Philippines, at any U.S. foreign service post, or at a U.S. military post outside the United States. (*See* § 422.106 for special procedures for filing applications with other government agencies.) Additionally, a U.S. resident may apply for a social security number for a nonresident dependent when the number is necessary for U.S. tax purposes or some other valid reason, the evidence requirements of § 422.107 are met, and we determine that a personal interview with the dependent is not required. Form SS–5 may be obtained at:

(i) Any local social security office;

(ii) The Social Security Administration, 300 N. Greene Street, Baltimore, MD 21201;

(iii) Offices of District Directors of Internal Revenue;

(iv) U.S. Postal Service offices (except the main office in cities having a social security office);

(v) U.S. Employment Service offices in cities which do not have a social security office;

(vi) The Department of Veterans Affairs Regional Office, Manila, Philippines;

(vii) Any U.S. foreign service post; and

(viii) U.S. military posts outside the U.S.

(2) *Birth registration document.* SSA may enter into an agreement with officials of a State, including, for this purpose, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and New York City, to establish, as part of the official birth registration process, a procedure to assist SSA in assigning social security numbers to newborn children. Where an agreement is in effect, a parent, as part of the official birth registration process, need not complete a form SS–5 and may request that SSA assign a social security number to the newborn child.

(c) *How numbers are assigned*—(1) *Request on form SS–5.* If the applicant has completed a form SS–5, the social security office, the Department of Veterans Affairs Regional Office, Manila, Philippines, the U.S. foreign service post, or the U.S. military post outside the United States that receives the completed form SS–5 will require the applicant to furnish documentary evidence, as necessary, to assist SSA in establishing the age, U.S. citizenship or alien status, true identity, and previously assigned social security number(s), if any, of the applicant. A personal interview may be required of the applicant. (See § 422.107 for evidence requirements.) After review of the documentary evidence, the completed form SS–5 is forwarded or data from the SS–5 is transmitted to SSA's central office in Baltimore, Md., where the data is electronically screened against SSA's files. If the applicant requests evidence to show that he or she has filed an application for a social security number card, a receipt or equivalent document may be furnished. If the electronic screening or other investigation does not disclose a previously assigned number, SSA's central office assigns a number and issues a social security number card. If investigation discloses a previously assigned number for the applicant, a duplicate social security number card is issued.

(2) *Request on birth registration document.* Where a parent has requested a social security number for a newborn child as part of an official birth registration process described in paragraph (b)(2) of this section, the State vital statistics office will electronically transmit the request to SSA's central office in Baltimore, MD, along with the child's name, date and place of birth, sex, mother's maiden name, father's name (if shown on the birth registration), address of the mother, and birth certificate number. This birth registration information received by SSA from the State vital statistics office will be used to establish the age, identity, and U.S. citizenship of the newborn child. Using this information, SSA will assign a number to the child and send the social security number card to the child at the mother's address.

(d) *Social security number cards.* A person who is assigned a social security number will receive a social security number card from SSA within a reasonable time after the number has been assigned. (See § 422.104 regarding the assignment of social security number cards to aliens.) Social security number cards are the property of SSA and must be returned upon request.

(e) *Replacement of social security number card.* In case of loss of or damage to the social security number card, a duplicate card bearing the same number may be issued. (See § 422.107 for evidence requirements.)

§ 422.105 [Amended]

3. Section 422.105 is amended by changing the cross-reference from 22 CFR 41.12 to 8 CFR 274a.12.

4. Section 422.106 is revised to read as follows:

§ 422.106 Filing applications with other government agencies.

(a) *Agreements.* In carrying out its responsibilities to assign social security numbers, SSA enters into agreements with the United States Attorney General and other Federal officials, and with State and local welfare agencies and school authorities. Examples of these agreements are discussed in paragraphs (b) and (c) of this section.

(b) *Immigration and Naturalization Service.* In connection with the legalization procedures established pursuant to the Immigration Reform and Control Act of 1986, the Immigration and Naturalization Service may accept an application for a social security number card from an alien. Immigration and Naturalization Service employees who accept such applications are authorized to certify that they have reviewed the evidence required to be submitted in support of the application. The employees will verify age, identity, alien status and work authorization of the applicants, and obtain evidence to assist SSA in determining the existence of any previously assigned social security number. The Immigration and Naturalization Service will then send the application to SSA for the issuance of a social security number card.

(c) *States.* SSA and a State may enter into an agreement that authorizes employees of a State or one of its subdivisions to accept social security number card applications from some individuals who apply for or are receiving welfare benefits under a State-administered Federal program. Under such an agreement, a State employee is also authorized to certify the application to show that he or she has reviewed the required evidence of the applicant's age, identity, and U.S. citizenship. The employee is also authorized to obtain evidence to assist SSA in determining whether the applicant has previously been assigned a number. The employee will then send the application to SSA which will issue a social security number card.

5. Section 422.107 is revised to read as follows:

§ 422.107 Evidence requirements.

(a) *General.* An applicant for an original social security number card must submit documentary evidence which the Secretary of Health and Human Services regards as convincing evidence of age, U.S. citizenship or alien status, and true identity. An applicant for a duplicate or corrected social security number card must submit convincing documentary evidence of identity and may also be required to submit convincing documentary evidence of age and U.S. citizenship or alien status. An applicant for an original, duplicate, or corrected social security number card is also required to submit evidence to assist the SSA in determining the existence and identity of any previously assigned number(s). A social security number will not be assigned, or an original, duplicate, or corrected card issued, unless all the evidence requirements are met. An in-person interview is required of all applicants of age 18 or older who apply for an original social security number. An in-person interview may also be required of other applicants. All documents submitted as evidence must be originals or certified copies of the original documents and are subject to verification with the custodians of the original records.

(b) *Evidence of age.* An applicant for an original social security number is required to submit convincing evidence of age. An applicant for a duplicate or corrected social security number card may also be required to submit evidence of age. Examples of the types of evidence which may be sumitted are a birth certificate, a religious record showing age or date of birth, a hospital record of birth, or a passport. (*See* § 404.716.)

(c) *Evidence of identity.* An applicant for an original social security number or a duplicate or corrected social security number card is required to submit convincing documentary evidence of identity. Documentary evidence of identity may consist of a driver's license, identity card, school record, medical record, marriage record, passport, Immigration and Naturalization Service document, or other similar document serving to identify the individual. It is preferable that the document contain the applicant's signature for comparison with his or her signature on the application for a social security number. A birth record is not sufficient evidence to establish identity. Where the applicant is a child under 7 years of age applying for an original social security number card and there is no documentary evidence of identity available, the requirement for evidence of identity will be waived if there is no reason to doubt the validity of the birth record, the social security number application, and the existence of the individual.

(d) *Evidence of U.S. citizenship.* Generally, an applicant for an original, duplicate, or corrected social security number card may prove that he or she is a U.S. citizen by birth by submitting a birth certificate or other evidence, as described in paragraphs (b) and (c) of this section, that shows a U.S. place of birth. Where a foreign-born applicant claims U.S. citizenship, the applicant for a social security number or a duplicate or corrected social security number card is required to present documentary evidence of U.S. citizenship. If required evidence is not available, a social security number card will not be issued until satisfactory evidence of U.S. citizenship is furnished. Any of the following is generally acceptable evidence of U.S. citizenship for a foreign-born applicant:

(1) Certificate of naturalization;

(2) Certificate of citizenship;

(3) U.S. passport;

(4) U.S. citizen identification card issued by the Immigration and Naturalization Service;

(5) Consular report of birth (State Department form FS–240 or FS–545); or

(6) Other verification from the Immigration and Naturalization Service, U.S. Department of State, or Federal or State court records confirming citizenship.

(e) *Evidence of alien status.* When a person who is not a U.S. citizen applies for an original social security number or a duplicate or corrected social security number card, he or she is required to submit, as evidence of alien status, a current document issued by the Immigration and Naturalization Service in accordance with that agency's regulations. The document must show that the applicant has been lawfully admitted to the United States, either for permanent residence or under authority of law permitting him or her to work in the United States, or that the applicant's alien status has changed so that it is lawful for him or her to work. If the applicant fails to submit such a document, a social security number card will not be issued. If the applicant submits an unexpired Immigration and Naturalization Service document(s) which shows current authorization to work, a social security number will be assigned or verified and a card which can be used for work will be issued. If the authorization of the applicant to work is temporary or subject to termination by the Immigration and Naturalization Service, the SSA records may be so annotated. If the document(s) does not provide authorization to work and the applicant wants a social security number for a work purpose, no social security number will be assigned. If the applicant requests the number for a nonwork purpose, *e.g.*, an Internal Revenue Service purpose, the number may be assigned and the card issued will be marked with a nonwork legend. The SSA record will be annotated to show that a number has been assigned and a card issued for a nonwork purpose. In that case, if earnings are later reported to SSA, the Immigration and Naturalization Service will be notified of the report. SSA may also notify that agency if earnings are reported for a social security number that was valid for work when assigned but for which work authorization expired or was later terminated by the Immigration and Naturalization Service. SSA may also annotate the record with other remarks, if appropriate.

(f) *Failure to submit evidence.* If the applicant does not comply with a request for the required evidence or other information within a reasonable time, SSA may attempt another contact with the applicant. If there is still no response, a social security number card will not be issued.

(g) *Invalid or expired documents.* SSA will not issue an original, duplicate, or corrected social security number card when an applicant presents invalid or expired documents. Invalid documents are either forged documents that supposedly were issued by the custodian of the record, or properly issued documents that were improperly changed after they were issued. An expired document is one that was valid for only a limited time and that time has passed.

6. Section 422.110 is revised to read as follows:

§ 422.110 Individual's request for change in record.

Form SS–5 should be completed and signed by any person who wishes to change the name or other personal identifying information previously submitted in connection with an application for a social security number card. The person must prove his or her identity and may be required to provide other evidence. (*See* § 422.107 for evidence requirements.) Form SS–5 may be obtained from any local social security office or from one of the sources noted in § 422.103(b). The completed request for change in records may be submitted to any SSA office, or, if the individual is outside the U.S., to the Department of Veterans Affairs Regional Office, Manila, Philippines, or to any U.S. foreign service post or U.S. military post. If the request is for a change in name, a new social security number card with the new name and bearing the same number previously assigned will be issued to the person making the request.

§ 422.112 [Amended]

7. Section 422.112 is amended in paragraph (a) by changing "Secretary of Health, Education, and Welfare" to "SSA".

§§ 422.112, 422.115, and 422.120 [Amended]

8. In addition to the amendments and revisions set forth above, remove the words "Bureau of Data Processing and Accounts" and add in their place the words "Office of Central Records Operations" in the following places:

(a) Section 422.112(a);

(b) Section 422.115; and

(c) Section 422.120.

[FR Doc. 90–26134 Filed 11–5–90; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 43

[T.D. 8314]

RIN 1545-AO67

Temporary Regulations Regarding the Tax on Transportation by Water

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to the temporary regulations that implement the tax on the transportation of passengers on covered voyages by certain vessels under section 4471 of the Internal Revenue Code as enacted by section 7504 of the Revenue Reconciliation Act of 1989.

FOR FURTHER INFORMATION CONTACT: Edward B. Madden, Jr., 202-566-4077 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of these corrections implement the tax on the transportation of passengers on covered voyages by certain vessels under section 4471 of the Internal Revenue Code enacted by section 7504 of the Revenue Reconciliation Act of 1989 (Pub. L. 101-239, 103 Stat. 2106, 2362).

Need for Correction

As published, the temporary regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

§ 43.6071(a)-1T [Corrected]

Accordingly, the publication of the temporary regulations published October 12, 1990 (55 FR 41519) FR Doc. 90-24049, is corrected as follows:

On page 41521, column 1, § 43.6071(a)-1T(c), lines 2 and 5, the date "November 15" is removed and "September 30" is added in its place.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 90-26125 Filed 11-5-90; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8-R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Ambulance Transfers

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule will revise DoD 6010.8-R (32 CFR part 199) which implements the Civilian Health and Medical Program of the Uniformed Services. The rule allows inpatient cost-sharing for otherwise covered ambulance transfers between hospitals. This will preserve continuity of care and reduce out-of-pocket costs for CHAMPUS beneficiaries.

EFFECTIVE DATE: This final rule is effective November 6, 1990.

FOR FURTHER INFORMATION CONTACT: David E. Bennett, Office of Program Development, OCHAMPUS, Aurora, Colorado 80045-6900, telephone (303)-361-3537.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-7834, appearing in the **Federal Register** on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published its regulations, DoD 6010.8-R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as part 199 of this title. DoD Regulation 6010.8-R was reissued in the **Federal Register** on July 1, 1986 (51 FR 24008).

In FR Doc. 90-11060 appearing in the **Federal Register** on May 25, 1990 (55 FR 21624), the Office of the Secretary of Defense published for public comment a proposed amendment allowing for inpatient cost-sharing of ambulance transfers between hospitals.

Background

This change was initiated to alleviate some of the financial burden experienced by CHAMPUS beneficiaries in medically isolated areas. These excessive out-of-pocket expenses were due in part to the current CHAMPUS rule of outpatient cost-sharing of ambulance transfers.

Under current regulation, all ambulance transfers are cost-shared on an outpatient basis. Dependents of active duty members are responsible for a $50 annual deductible and 20 percent of the CHAMPUS-determined allowable amount beyond the annual fiscal year deductible. Retirees and their dependents are subject to the same deductible as active duty dependents, but must pay 25 percent of the CHAMPUS-determined allowable amount. If the provider does not accept assignment on a claim, the beneficiary must also pay the difference between billed charges and the CHAMPUS-determined allowed amount.

This rule revises the cost-sharing provisions for otherwise covered ambulance transfers between hospitals. Transfers between hospitals will be cost-shared on an inpatient basis. This is consistent with § 199.4(a)(4) which states,

Status of patient controlling for purposes of cost-sharings. Benefits for covered services and supplies described in this chapter will be extended either on an inpatient or outpatient cost-sharing basis in accordance with the status of the patient at the time the covered services and supplies were provided * * *.

This will preserve continuity of care and reduce out-of-pocket costs for active duty dependents. Under the inpatient cost-sharing provisions, the transferred active duty dependent will only be responsible for the difference, if any, between billed charges and the CHAMPUS-determined allowable charge if the provider does not accept assignment. No cost-share will be taken for ambulance transfers rendered in conjunction with an inpatient-stay.

The revised cost-sharing provisions will have minimal impact on retirees and their dependents since their cost-share remains twenty-five percent whether a service is provided on an inpatient or outpatient basis. The change will, however, eliminate application of the outpatient deductible requirement for ambulance transfers for this beneficiary category.

Under current policy, emergency room (ER) services are cost-shared as inpatient when an immediate inpatient admission for acute care follows the outpatient ER services. In order to be consistent with this policy, medically necessary ambulance transfers from an ER to a hospital more capable of providing the required level of care will also be cost-shared on an inpatient basis.

Review of Comments

As a result of the publication of the proposed rule, two comments were received from a coordinating agency. The first comment dealt with the expansion of ambulance benefit to air charter services with or without accompanying attendant. It was felt that this would offer greater availability and result in a better match of resources and needs than having the choices be limited solely to surface ambulance or full-fledged air ambulance.

The coverage of ambulance services is based solely on the condition of the patient and various geographic considerations outlined under § 199.4(d)(3)(v)(D) of the Regulation. The type of ambulance vehicle is further defined under the definitions section (section 199.2) of the Regulation as "A specially designed vehicle for transporting the sick or injured that contains a stretcher, linens, first aid supplies, oxygen equipment, and such lifesaving equipment required by state and local law, and that is staffed by personnel trained to provide first aid treatment."

The use of ambulance services is covered solely for the emergency transfer of patients where no other means of transportation would be appropriate and where actual medical care is provided in transit. Opening the benefit up to air charter services would be totally inconsistent with this concept and would be provided solely for the convenience of the patient. Because of current budgetary constraints, it would be fiscally irresponsible to expand the ambulance benefit at this time.

The other comment dealt with covering ambulance services between Uniformed Services Medical Treatment Facilities (USMTFs). Under Cooperative Care guidelines agreed upon by CHAMPUS and the Services, CHAMPUS benefits may only be extended for civilian ambulance services to a USMTF when ordered by other than direct care personnel. Since there is no disengagement upon transferring patients between USMTFs, coverage cannot be extended for ambulance services. The transferring USMTF is responsible for payment of the ambulance transfer under Supplemental Care.

Regulatory Procedures

Executive Order 12291 requires that a regulatory impact analysis be performed on any major rule. A "major rule" is defined as one which would result in an annual effect on the national economy of $100 million or more or have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues regulations which would have a significant impact on a substantial number of small entities.

This rule is not a major rule under Order 12291. The changes set forth in this rule are minor revisions to existing regulation. In addition, this rule will have very minor impact and not significantly affect a substantial number of small entities. In light of the above, no regulatory impact analysis is required.

This rule does not impose information collection requirements. Therefore, it does not need to be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511).

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, and Military personnel.

PART 199—[AMENDED]

Accordingly, 32 CFR, part 199, is amended as follows:

1. The authority citation for part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301, Pub. L. 101–165, section 9100.

2. Section 199.4 is amended by revising paragraph (d)(3)(v) introductory text and adding a note at the end of paragraph (d)(3)(v) introductory text.

§ 199.4 Basic program benefits.

* * * * *

(d) * * *

(3) * * *

(v) *Ambulance.* Civilian ambulance service to and between hospitals is covered when medically necessary in connection with otherwise covered services and supplies and a covered medical condition. Ambulance service is also covered for transfers to a Uniformed Service Medical Treatment Facility (USMTF). For the purpose of CHAMPUS payment, ambulance service is an outpatient service (including in connection with maternity care) with the exception of otherwise covered transfers between hospitals which are cost-shared on an inpatient basis. Ambulance transfers from a hospital based emergency room to another hospital more capable of providing the required care will also be cost-shared on an inpatient basis.

Note: The inpatient cost-sharing provisions for ambulance transfers only apply to otherwise covered transfers between hospitals, i.e., acute care, general, and special hospitals; psychiatric hospitals; and long-term hospitals.

* * * * *

Dated: October 30, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–26063 Filed 11–5–90; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6814

[OR–943–00–4214–10; GP0–088; OR–20313]

Revocation of the Secretarial Order Dated July 10, 1935; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes in its entirety a Secretarial order which withdrew 280 acres of public land for the Bureau of Reclamation's Deschutes Project. The Bureau of Reclamation has determined that the land is no longer needed for the purpose for which it was withdrawn. The revocation is needed to permit disposal of the land by conveyance to the State of Oregon. This action will open 149.20 acres to surface entry and mining and 130.80 acres to disposal by conveyance to the State of Oregon subject to the provisions of section 24 of the Federal Power Act.

EFFECTIVE DATE: December 6, 1990.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503–280–7171.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and by section 24 of the Act of June 10, 1920, as amended, 16 U.S.C. 818, and pursuant to the determination by the Federal Energy Regulatory Commisssion in DVOR–611, it is ordered as follows:

1. The Secretarial Order dated July 10, 1935, which withdrew the following described land, is hereby revoked in its entirety:

Willamette Meridian

T. 12 S., R. 12 E.,
Sec. 11, N½SW¼ and SW¼SW¼;
Sec. 14, NW¼.

The area described contains 280 acres in Jefferson County.

2. At 8:30 a.m., on December 6, 1990, those portions of secs. 11 and 14 within the boundary of Power Project 2030 will be opened to disposal by conveyance to the State of Oregon subject to the provisions of section 24 of the Federal Power Act as specified in Federal Energy Regulatory Commission determination DVOR–611, valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

3. At 8:30 a.m., on December 6, 1990, the land described in paragraph 1, except as described in paragraph 2, will be opened to operation of the public land laws generally, subject to valid existing rights; the provisions of existing withdrawals; the provisions of section 24 of the Federal Power Act, where applicable; any segregations of record; and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., December 6, 1990, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 8:30 a.m., on December 6, 1990, the land described in paragraph 1, except as described in paragraph 2, will be opened to location and entry under the United States mining laws, subject, where applicable, to the provisions of section 24 of the Federal Power Act. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: October 29, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-26143 Filed 11-5-90; 8:45 am]

BILLING CODE 4310-33-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[Docket No. 45428 Notice No. 90-29]

Procedures for Transportation Workplace Drug Testing Programs

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of end of transition period for required drug testing custody and control form.

SUMMARY: In its December 1, 1989, final rule establishing Procedures for Transportation Workplace Drug Testing Programs (49 CFR part 40); the Department allowed a transition period from the drug testing custody and control form required in the November 21, 1988 Interim final rule to the form required by the December 1, 1989 final rule. This notice establishes the ending date for that transition period.

EFFECTIVE DATE: This notice establishes December 1, 1990, as the date employers must use the standardized 6 or 7 part drug testing custody and control form in accordance with 49 CFR part 40, December 1, 1989.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Smith, Office of Drug Enforcement and Program Compliance, Department of Transportation, 400 7th Street, SW., room 10200, Washington, DC 20590 (202) 366-3784).

SUPPLEMENTARY INFORMATION: In November 1988, the Department of Transportation published rules requiring drug testing programs in the aviation, maritime, railroad, mass transit, pipeline and motor carrier industries. The November 21, 1988, interim final rule published by the Office of the Secretary of Transportation required a five part form that conformed to the interim final rule requirements. The revised final rule, on this subject, published December 1, 1989, allowed "employers to continue using forms complying with the interim rule for a reasonable time." All new printings of forms were to conform to the revised final rule and the revised six or seven part form. Transition was urged as soon as possible. This notice establishes December 1, 1990, as the final date for transition to the six or seven part form which conforms to the revised 49 CFR part 40. As established in the final rule, employers are not required to "photocopy" the form at appendix A; and may gather the information in a somewhat different format. Experience with the use of the form over the past year, has demonstrated, however, that forms which present the data in the same order as the sample form in appendix A, are easier for collection facilities to complete accurately.

Employers are required to gather the information called for in § 40.23(a) and may not gather information inconsistent with that called for in the rule. Strict compliance must be assured in the following areas: The format must be either a six or seven part carbonless form designed to go to the locations specified in the rule; employee identification data that goes to the lab is restricted to SSN or employee ID number only; employee, collector, MRO and laboratory certification statements must be *verbatim* as presented in the rule; the donor medical information provision must conform exactly to the rule requirements; and the MRO identification data must be as the rule requires.

Drug testing custody and control forms that do not conform to the provisions of 49 CFR part 40, December 1, 1989, after December 1, 1990 are not in compliance with the rule.

Issued this thirty-first day of October, 1990, at Washington, DC.

Terrance W. Gainer,

Special Assistant to the Secretary.

[FR Doc. 90-26127 Filed 11-5-90; 8:45 am]

BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 89-24; Notice 2]

RIN 2127-AC77

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This rule deletes the prohibition against optical combinations of clearance lamps and identification lamps. The purpose of this action is to eliminate a requirement deemed no longer necessary for safety.

This notice responds to a petition by the Truck Safety Equipment Institute (TSEI), and adopts a proposal published in December 1989.

EFFECTIVE DATE: The rule is effective December 6, 1990.

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Rulemaking, NHTSA (202-366-5271).

SUPPLEMENTARY INFORMATION: This notice completes rulemaking on one of the proposals published on December 5, 1989, which had as its purpose the deletion of all references to "optical combinations" of lamps (54 FR 50254). Because comments did not support other aspects of the proposal, NHTSA will issue a supplementary notice proposing adoption of the definition of the Society of Automotive Engineers.

From its very beginning, Motor Vehicle Safety Standard No. 108, in one version or another, has allowed two or more lamps, reflective devices, or items of associated equipment to be combined, if the requirements for each are met, provided that certain specified lamps were not "optically combined" (*See, e.g.*, sections S3.3, S3.4.4.3, 23 CFR 255.21 revised as of January 1, 1968,

Motor Vehicle Safety Standard No. 108). The current provisions addressed by this rule are contained in section S5.4.1.

Specifically, section S5.4.1 permits lighting equipment to be "combined", provided that "no clearance lamp may be combined optically with any taillamp or identification lamp, and no high mounted stop lamp shall be combined with any other lamp or reflective device." The agency has never adopted a definition of "optically combined", but has over the years attempted to clarify the term by issuing a variety of interpretations.

On June 14, 1988, the Truck Safety Equipment Institute ("TSEI") petitioned the agency for rulemaking to amend Standard No. 108 to adopt the Society of Automotive Engineers' (SAE) definition of the term "combined optically" as set forth in SAE Information Report J387 OCT88 "Terminology—Motor Vehicle Lighting." Until the revision of SAE J387 in 1988, the term had been undefined, though appearing in the two SAE standards for many years, as well as Standard No. 108. TSEI had examined the opinion letters issued by NHTSA and concluded that they were inconsistent, alleging, for example, that one had "apparently been used to justify designs which have the clearance lamp bulb mounted in close proximity to the dual filament stop/tail lamp bulb * * *. Both use a common lens area for the output of the tail and clearance functions. It does not appear that this is in keeping with either the spirit or the intent of FMVSS 108." The petitioner also mentioned that Canada had adopted, effective September 2, 1987, a definition of "combined optically" which is substantially similar to that of the SAE.

In considering TSEI's petition, NHTSA examined the existing prohibitions against lamp combinations. The agency tentatively concluded that it is no longer necessary to forbid the "optical combination" of clearance lamps and identification lamps. The locational requirements of Standard No. 108 with respect to each are so dissimilar that they could not be met with an "optically combined" lamp. Under Table II of Standard No. 108, the three lamp cluster of identification lamps are to be mounted within a narrow space around the vertical centerline on vehicles whose overall width is 80 inches or more, while clearance lamps must be mounted to indicate the overall width of that vehicle. Further, under paragraph S5.3.1.4, when the rear identification lamps are mounted at the extreme height of the vehicle, the rear clearance lamps need not be located as close as practicable to the top of the vehicle. In the judgment of the agency, the likelihood of "optical combination" of identification and clearance lamps was infinitesimal.

Accordingly, the agency proposed a revision of the requirement under which lighting equipment could be "combined if the requirements for each * * * are met, except that a taillamp shall not share a light source, lens, or lamp body with a clearance lamp, and a center highmounted stop lamp shall not share a light source, lens, or lamp body with any other lamp or reflective device."

Comments were received from White/GMC Trucks, Chrysler Corporation, General Motors Corporation, Truck Safety Equipment Institute (TSEI), Peterson Manufacturing Company, Grote Manufacturing Company, Ford Motor Company, Truck-Lite Company, and Dry Launch. Commenters supported the deletion of the prohibition against optical combination of clearance lamps and identification lamps, for the reasons given by NHTSA in its proposal. However, all commenters other than Chrysler specifically objected to the terminology used by NHTSA to substitute clarifying language for "optical combination". In their views, adoption of the proposed language would prohibit use of currently-permissible lamps that share a lamp body. Each of the commenters who objected urge NHTSA to consider adoption of the SAE definition, as TSEI had originally requested.

The agency also considered the prohibition against optically combining other lamps. Similarly, the commenters objected to these proposals, and recommended adoption of the SAE definition. NHTSA will address these comments in a supplemental notice of proposed rulemaking, Notice 3.

Because the rule will remove an existing restriction, it is hereby found for good cause shown that an effective date earlier than 180 days after issuance is in the public interest. Accordingly, the amendment is effective 30 days after its publication in the **Federal Register**.

Impacts

NHTSA has considered the impacts of this rulemaking action and has determined that it is neither major within the meaning of Executive Order 12291 "Federal Regulations," nor significant under Department of Transportation regulatory policies and procedures. The primary effect of the rule is to relieve a restriction. Therefore, the agency has not prepared a full regulatory evaluation.

NHTSA has analyzed this rule for purposes of the National Environmental Policy Act. It is not anticipated that the rule will have a significant effect upon the environment because its effect is to remove a restriction.

The agency has also considered the effects of this rule in relation to the Regulatory Flexibility Act. I certify that this rule will not have a significant economic effect upon a substantial number of small entities. Lamp and vehicle manufacturers are generally not small businesses within the meaning of the Regulatory Flexibility Act. Furthermore, small organizations and governmental jurisdictions will not be significantly affected as the price of new vehicles should not be impacted. Accordingly, no Regulatory Flexibility Analysis has been prepared.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 "Federalism," and it has been determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 571

Imports, motor vehicle safety, motor vehicles.

In consideration of the foregoing, 49 CFR part 571, § 571.108 Motor Vehicle Safety Standard No. 108 *Lamps, Reflective Devices, and Associated Equipment* is amended as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1407; delegations of authority at 49 CFR 1.50.

§ 571.108 [Amended]

2. In § 571.108, S5.4 of Standard No. 108 is revised to read as follows:

S5.4 *Equipment combinations.* Two or more lamps, reflective devices, or items of associated equipment may be combined if the requirements for each lamp, reflective device, and item of associated equipment are met, except that no clearance lamp may be optically combined with any taillamp, and no high-mounted stop lamp shall be combined with any other lamp or reflective device.

3. S5.4.1 of Standard No. 108 is removed.

Issued on: October 31, 1990.

Jeffrey R. Miller,

Deputy Administrator.

[FR Doc. 90-26232 Filed 11-5-90; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 55, No. 215
Tuesday, November 6, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-226-AD]

Airworthiness Directives; Aerospatiale Model ATR42-300 and ATR42-320 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42-300 and ATR42-320 series airplanes, which would require modification of the cockpit voice recorder (CVR). This proposal is prompted by reports that the CVR, in its present configuration, may continue to record and possibly lose information following an accident. This condition, if not corrected, could affect air safety if important information provided by the CVR is not available following an accident to facilitate the determination of probable cause and the subsequent development of necessary corrective action or design changes to prevent future accidents.

DATES: Comments must be received no later than January 2, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, attention: Airworthiness Rules Docket No. 90-NM-226-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 227-2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-226-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Aerospatiale ATR42-300 and ATR42-320 series airplanes. There have been recent reports that the cockpit voice recorder (CVR), in its present configuration, may continue to record and progressively erase data following an accident. This condition, if not corrected, could affect air safety if important information provided by the CVR is not available following an accident to facilitate determination of probable cause and the subsequent development of necessary corrective action or design changes to prevent future accidents.

Aerospatiale has issued Service Bulletin ATR42-23-0018, dated July 13, 1989, which describes procedures to modify the CVR, which includes rewiring of relay 9RK, to restore the automatic shut-off feature. The French DGAC has classified this service bulletin as mandatory, and has issued Airworthiness Directive 89-093-022(B).

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require modification of the cockpit voice recorder in accordance with the service bulletin previously described.

It is estimated that 8 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The required parts will be supplied to the operators at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $320.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Aerospatiale: Applies to Model ATR42–300 and ATR42–320 series airplanes, Serial Numbers 123 through 142, which have been fitted with Modification 1848 and have not incorporated Modification 2311, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent loss of cockpit voice recorder (CVR) information, accomplish the following:

A. Within 30 days after the effective date of this AD, restore the automatic shut-off feature to the CVR by rewiring relay 9RK, in accordance with Aerospatiale Service Bulletin ATR42–23–0018, dated July 13, 1989.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANN–113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM–113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on October 30, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–26176 Filed 11–5–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90–NM–225–AD]

Airworthiness Directives; Airbus Industrie Model A310–200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to all Airbus Industrie Model A310–200 series airplanes, which would require repetitive high frequency eddy current (HFEC) rototest inspections to detect cracks in the wing rear spar at certain bolt holes where the main landing gear (MLG) forward pick-up fittings are attached to the rear spar, and repair, if necessary. This proposal is prompted by full-scale fatigue testing by the manufacturer, which revealed cracks in the wing rear spar emanating from certain bolt holes at the attachment of the MLG forward pick-up fitting. This condition, if not corrected, could result in reduced structural integrity of the wings.

DATES: Comments must be received no later than January 2, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANN–103, Attention: Airworthiness Rules Docket No. 90–NM–225–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM–113; telephone (206) 227–2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90–NM–225–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on all Airbus Industrie Model A310–200 series airplanes. During full-scale fatigue testing by the manufacturer, cracks were found in the rear spar, emanating from certain bolt holes at the attachment of the main landing gear (MLG) forward pick-up fitting. This condition, if not corrected, could result in reduced structural integrity of the wings.

Airbus Industrie has issued Service Bulletin A310–57–2046, dated March 5, 1990, which describes procedures for repetitive high frequency eddy current (HFEC) rototest inspections to detect cracks in the wing rear spar at certain bolt holes where the MLG forward pick-up fittings are attached to the rear spar, and repair, if necessary. The French DGAC has classified this service bulletin as mandatory, and has issued Airworthiness Directive 90–043–105(B)R1 addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of

§21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require repetitive HFEC rototest inspections to detect cracks in the wing rear spar at certain bolt holes where the MLG forward pick-up fittings are attached to the rear spar, and repair, if necessary, in accordance with the service bulletin previously described.

It is estimated that 7 airplanes of U.S. registry would be affected by this AD, that it would take approximately 180 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $50,400.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [AMENDED]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to all Model A310-200 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To detect cracks in the wing rear spar and prevent reduced structural integrity of the wings, accomplish the following:

A. Prior to the accumulation of 12,000 landings, or within 1,000 landings after the effective date of this AD, whichever occurs later, perform a high frequency eddy current (HFEC) rototest inspection of the wing rear spar at certain bolt holes where the main landing gear (MLG) forward pickup fittings are attached to the rear spar, in accordance with Airbus Industrie Service Bulletin A310-57-2046, dated March 5, 1990.

1. If no cracks are found at the first inspection and no cold working of the holes concerned is carried out; repeat the HFEC rototest inspection at intervals not to exceed 4,500 landings.

2. If no cracks are found at the first inspection and a spar life extension by cold working of the holes concerned is carried out in accordance with the paragraph 2.3.(1)(b) of the Accomplishment Instructions of the service bulletin, repeat the HFEC rototest inspection within the next 18,000 landings, and thereafter at intervals not to exceed 12,000 landings.

B. If cracks are found, repair prior to further flight, in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Repeat the HFEC rototest inspection at an interval approved by the Manager, Standardization Branch, ANM-113.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on October 30, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26173 Filed 11-5-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-200-AD]

Airworthiness Directives; Airbus Industrie Model A300-B4 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300-B4 series airplanes, which would require a one-time detailed visual inspection to detect cracks in the pylon rear attachment sealing angles, and repair, if necessary. This proposal is prompted by reports of premature cracking found on in-service airplanes in the vertical flange of the pylon rear attachment sealing angles. This condition, if not corrected, could result in reduced structural capability of the engine pylon.

DATES: Comments must be received no later than January 2, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-200-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 227-2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications

should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-200-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Airbus Industrie Model A300-B4 series airplanes with high-time flight cycles. There have been recent reports of premature fatigue cracks found on in-service airplanes in the vertical flange of the pylon rear attachment sealing angles. The cracks initiated from either the second or third bolt hole in the vertical flange of the sealing angle, outboard of Rib 8. Initial propagation was upward to the free edge, followed shortly by the crack growing downward into the corner and then across the horizontal flange. This condition, if not corrected, could result in reduced structural capability of the engine pylon.

Airbus Industrie has issued All Operators Telex (AOT) 57-01, dated July 30, 1990, which describes procedures for a detailed visual inspection to detect cracks in the pylon rear attachment sealing angles, followed by a dye penetrant inspection if cracks are suspected, and repair, if necessary. The DGAC has classified this AOT as mandatory, and has issued Airworthiness Directive T-89-189-097(B)R2 addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require a one-time detailed visual inspection to detect cracks in the pylon rear attachment sealing angles; a dye penetrant inspection if cracks are found; and repair, if necessary; in accordance with the AOT previously described.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

It is estimated that 8 airplanes of U.S. registry would be affected by this AD, that it would take approximately 12 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,840.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [AMENDED]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to certain Model A300-B4 series airplanes, as listed in Airbus Industrie All Operators Telex (AOT) 57-01, dated July 10, 1990, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To detect cracks in the pylon rear attachment sealing angles and prevent reduced structural capability of the engine pylon, accomplish the following:

A. Within 250 landings after the effective date of this AD, perform a detailed visual inspection of the vertical flanges of the pylon rear attachment sealing angles, in accordance with AOT 57-01, dated July 10, 1990. If cracks are indicated, prior to further flight, perform a dye penetrant inspection to confirm any suspected findings in accordance with the AOT.

B. If cracks are found as a result of the dye penetrant inspection required by paragraph A. of this AD, prior to further flight, repair in accordance with AOT 57-01, dated July 10, 1990.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on October 30, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26174 Filed 11-5-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-229-AD]

Airworthiness Directives; Airbus Industrie Model A300, A310, and A300-600 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300, A310, and A300-600 series airplanes, which would require the identification and removal of faulty hydraulic power fire shut-off valves and replacement with modified valves. This proposal is prompted by reports of inoperative hydraulic power fire shutoff valves discovered during aircraft production tests. This condition, if not corrected, could result in the inability to close the valves, and the loss of hydraulic powered systems due to the loss of hydraulic fluid.

DATES: Comments must be received no later than January 2, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-229-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 227-2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-229-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Airbus Industrie Model A300, A310, and A300-600 series airplanes. There have been recent reports of inoperative hydraulic power fire shut-off valves discovered during production testing. Further investigation revealed a maladjustment of the valve actuator end-of-travel limit switches due to a change in the actuator adjustment procedures. This condition, if not corrected, could result in the inability to close the valves, and the loss of hydraulic powered systems due to the loss of hydraulic fluid.

Airbus Industrie has issued the following service bulletins, which describes procedures to identify the affected hydraulic power fire shut-off valves and replacement with new modified valves:

Model	Service bulletin number and issue date
A300	A300-29-096, dated January 29, 1990.
A310	A310-29-2025, dated January 29, 1990.
A300-600	A300-29-6017, dated January 29, 1990.

Note: The above-listed service bulletins reference Lucas Air Equipment Service Bulletin No. B38LC15-29-05, Revision 1, dated February 1990, for additional instructions.

The French DGAC has classified the above service bulletins as mandatory, and has issued Airworthiness Directive 90-042-104(B) addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require identification and removal of faulty hydraulic power fire shut-off valves, and replacement with new modified hydraulic power fire shut-off valves, in accordance with the service bulletins previously described.

It is estimated that 113 airplanes of U.S. registry would be affected by this AD, that it would take approximately 8.5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The modified hydraulic power fire shut-off valves will be supplied to the operators at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $38,420.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to all Model A300, A310, and A300–600 series airplanes, on which Airbus Industrie Modification 8135 has not been accomplished, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent the inability of the hydraulic power fire shut-off valves to close during emergency conditions, accomplish the following:

A. Within 180 days after the effective date of this AD, conduct an inspection of the hydraulic power fire shut-off valves to identify faulty valves, as specified in Airbus Industrie Service Bulletins A300–29–096 (for Model A300 series airplanes), A310–29–2025 (for Model A310 series airplanes), and A300–29–6017 (for Model A300–600 series airplanes), all dated January 29, 1990. Any faulty valve identified must be removed and replaced with a modified valve prior to further flight, in accordance with the appropriate service bulletin.

Note: The Airbus Industrie service bulletins reference Lucas Air Equipment Service Bulletin No. B38LC15–29–05, Revision 1, dated February 1990, for additional instructions.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM–113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM–113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on October 30, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–26175 Filed 11–5–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90–NM–22–AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to Boeing Model 727 series airplanes, which would require inspection for cracking of the inboard trailing edge flap inboard track, repair if necessary, and eventual replacement of previously repaired tracks. This proposal is prompted by reports of cracking of the flap tracks. This condition, if not corrected, could result in failure of the flap track and possible separation of the inboard trailing edge flap.

DATES: Comments must be recieved no later than December 31, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–22–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Kathi N. Ishimaru, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S; telephone (206) 227–2778. Mailing address: FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90–NM–22–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

There have been several reports of cracks in the inboard trailing edge flap inboard track on Boeing Model 727 airplanes. Cracks have been attributed to fatigue. Such cracks, if not detected, could lead to failure of the flap track and possible separation of the affected inboard trailing edge flap.

The FAA has reviewed and approved Boeing Service Bulletin 727–32–0340, Revision 3, dated May 24, 1990, which describes procedures for inspection, repair if necessary, and modification, of the inboard trailing edge flap inboard tracks.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspection for cracks of the inboard trailing edge flap inboard tracks, repair if necessary, and eventual replacement of previously repaired tracks, in accordance with the service bulletin previously described.

There are approximately 1,695 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 1,172 airplanes of U.S. registry would be affected by this AD, that it would take approximately 29 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost

impact of the AD on U.S. operators is estimated to be $1,359,520.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the rules docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to all Model 727 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent separation of an inboard trailing edge flap due to cracking, accomplish the following:

A. Except as provided in paragraph E. of this AD, prior to the accumulation of 7,000 flight cycles, or within the next 1,000 flight cycles after the effective date of this AD, whichever occurs later, perform a detailed visual inspection for cracks in the inboard trailing edge flap inboard track at the main landing gear door forward hinge fitting attachment holes. Repeat the inspections at intervals not to exceed 3,000 flight cycles. The hinge fitting bolts do not have to be removed to accomplish this inspection.

B. If cracked forward hinge fittings are found, prior to further flight, replace the fittings.

C. If cracked flap tracks are detected that do not exceed the limits specified in Figure 1 of Boeing Service Bulletin 727-32-0340, Revision 3, dated May 24, 1990, (hereafter referred to as "the service bulletin"), prior to further flight, repair in accordance with the service bulletin or replace the flap track.

D. If cracked flap tracks are detected that exceed the limits specified in Figure 1 of the service bulletin, prior to further flight, replace the track.

E. Flap tracks repaired in accordance with Boeing Drawing 65-68420 must be replaced within the time interval specified in subparagraph 1. or 2., below, whichever occurs later.

1. Within 2,000 flight cycles or 1 year since repair, whichever occurs first; or

2. Within 1,000 flight cycles or 6 months after the effective date of this AD, whichever occurs first.

F. Inspection and modification in accordance with Figure 1 of the service bulletin constitutes terminating action for the inspections required by paragraph A. of this AD.

G. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

H. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on October 29, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26177 Filed 11-5-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-211-AD]

Airworthiness Directives: Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to Boeing Model 727 series airplanes, which would require inspection for cracks of the No. 2 cargo doorway forward and aft frames, and repair, if necessary. This proposal is prompted by reports of cracks in the forward and aft frame webs. This condition, if not corrected, could result in failure of the No. 2 cargo doorway frames and depressurization of the airplane.

DATES: Comments must be received no later than December 28, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-211-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

FOR FURTHER INFORMATION CONTACT: Ms. Kathi N. Ishimaru, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2778. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-211-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

There have been several reports of cracks in the web of the No. 2 cargo doorway forward and aft frames of Boeing Model 727 series airplanes. In one case, the full web and inner chord of the frame were cracked. This condition, if not corrected, could result in failure of the doorway frames and depressurization of the aircraft.

The FAA has reviewed and approved Boeing Alert Service Bulletin 727-53A0199, dated July 5, 1990, which describes procedures for inspection and repair of the No. 2 cargo doorway frames.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspection for cracks and repair, if necessary, of the No. 2 cargo doorway forward and aft frames, in accordance with the service bulletin previously described.

There are approximately 1,202 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 961 airplanes of U.S. registry would be affected by this AD, that it would take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $192,200

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39:

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 727 series airplanes, listed in Boeing Alert Service Bulletin 727-53A0199, dated July 5, 1990, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent failure of the No. 2 cargo doorway frames and depressurization of the airplane, accomplish the following:

A. Prior to accumulating 22,000 total flight cycles or within the next 500 flight cycles after the effective date of this AD, whichever occurs later, conduct a visual inspection and an eddy current inspection of the No. 2 cargo doorway forward and aft frames for cracks, in accordance with Figure 1 of the Boeing Alert Service Bulletin 727-53A0199, dated July 5, 1990. Repeat the inspections at intervals not to exceed 3,000 flight cycles.

B. If cracks are found, prior to further flight, repair in accordance with Boeing Alert Service Bulletin 727-53A0199, dated July 5, 1990.

C. Incorporation of repairs in accordance with Figure 2 or modification in accordance with Figure 3 of Boeing Alert Service Bulletin 727-53A0199, dated July 5, 1990, constitutes terminating action for the inspection requirements of paragraph A. of this AD.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Issued in Seattle, Washington, on October 26, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26178 Filed 11-5-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-213-AD]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to 757 series airplanes, which would require the installation of a bracket to hold hydraulic tubing associated with the landing gear alternate extension system and prevent it from chafing on a floor beam. This proposal is prompted by a report that omission of this bracket can result in a hole being chafed in the tubing and subsequent loss of hydraulic fluid from the alternate gear extension system. This condition, if not corrected, could result in a latent failure of the alternate gear extension system that would render this system inoperative in the event that it was required due to a failure of the normal gear extension system. If this occurred, the airplane would be forced to land with the gear fully or partially up.

DATES: Comments must be received no later than December 28, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-213-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Letcher, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S; telephone (206) 227-2670. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-213-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The manufacturer has reported that certain Model 757 series airplanes have been delivered without a bracket which prevents the hydraulic tubing of the alternate landing gear extension system from chafing on a floor beam. This chafing can result in loss of fluid from the alternate gear extension system. The damage to the tubing and the loss of fluid may not be detected until the alternate extension system is actually needed due to a malfunction of the normal extension system. The latent failure of the alternate extension system could result in an aircraft landing with the gear fully or partially retracted.

The FAA has reviewed and approved Boeing Service Bulletin 757-29-0042, dated August 9, 1990, which describes procedures for installing a bracket to hold the hydraulic tubing in place and prevent it from rubbing on the floor beam.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require the bracket installation in accordance with the service bulletin previously described.

There are approximately 10 Model 757 series airplanes of the affected design in the worldwide fleet. It is estimated that 8 airplanes of U.S. registry would be affected by this AD, that it would take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The cost of parts is estimated at $53 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,624.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 757 series airplanes, listed in Boeing Service Bulletin 757-29-0042, dated August 9, 1990, certificated in any category. Compliance required within 3,000 hours time-in-service after the effective date of this AD, unless previously accomplished.

To prevent a latent failure of the alternate landing gear extension system, accomplish the following:

A. Install a bracket and attach the hydraulic tubing in accordance with Boeing Service Bulletin 757-29-0042, dated August 9, 1990.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on October 26, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26179 Filed 11-5-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-141-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to all Boeing Model 747 series airplanes, which would require inspection of certain nacelle strut midspar fuse pins, and replacement, if necessary. This proposal is prompted by a report of a 2.55-inch long crack in a new style fuse pin, on which necessary primer and corrosion preventive compound had not been applied. This condition, if not corrected, could result in failure of the pin and separation of the engine from the airplane.

DATES: Comments must be received no later than December 28, 1990.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-141-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Satish K. Pahuja, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2781. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-141-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

An operator of a Boeing Model 747 series airplane reported finding a 2.55-inch long crack in a new style nacelle strut midspar fuse pin on which primer and corrosion preventive compound had not been applied. The FAA has determined that some new style fuse pins were not manufactured correctly in that necessary primer and corrosion preventive compound were not applied. Corrosion and/or cracking may result if primer and corrosion preventive compound are not applied. Failure to detect and repair cracks could result in failure of the pin and separation of the engine from the airplane.

The FAA has reviewed and approved Boeing Service Bulletin 747-54-2063, Revision 7, dated March 29, 1990, which describes procedures for inspection for corrosion, cracks, and the presence of primer and corrosion preventive compound on the engine strut midspar fuse pins; replacement, if necessary; and application of corrosion preventive compound and primer on undamaged engine strut midspar fuse pins on certain Boeing Model 747 airplanes.

Since this condition is likely to exist on other airplanes of this same type design, a new AD is proposed that would require inspections of the new style nacelle strut midspar fuse pins for primer, corrosion preventive compound, corrosion and cracking; modifications; and replacement, if necessary, in accordance with the service bulletin previously described.

There are approximately 700 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 174 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $27,840.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to all Model 747-100, -200, and -300 series airplanes, Line number 001 through 827, certificated in any category, equipped with the new style nacelle strut midspar fuse pins, Part Numbers 69B89611-1, 69B89611-2, 69B90340-4, 69B90340-6, 69B90409-5, and 69B90409-9, installed in accordance with Boeing Service Bulletin 747-54-2063, Revision 6, dated July 20, 1989, or previous FAA-approved revisions, or installed during the manufacture of the airplane. Compliance required as indicated, unless previously accomplished.

To prevent failure of the new style nacelle strut midspar fuse pin and separation of the engine from the airplane, accomplish the following:

A. Prior to the accumulation of 12,000 total flight hours, or within the next 2,000 flight hours after the effective date of this AD, whichever occurs later, inspect the new style nacelle strut midspar fuse pins for the presence of primer and corrosion preventive compound, in accordance with Boeing Service Bulletin 747–54–2063, Revision 7, dated March 29, 1990.

1. If primer and corrosion preventive compound are present, no further action is required.

2. If primer and corrosion preventive compound are missing, prior to further flight, inspect the pin for corrosion and cracks, in accordance with Boeing Service Bulletin 747–54–2063, Revision 7, dated March 29, 1990.

a. If corrosion or cracks are found, prior to further flight, replace the fuse pin, in accordance with Boeing Service Bulletin 747–54–2063, Revision 7, dated March 29, 1990.

b. If no corrosion or cracks are found, the fuse pin may be returned to service after application of primer and corrosion preventive compound, in accordance with Boeing Service Bulletin 747–54–2063, Revision 7, dated March 29, 1990.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on October 26, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–26180 Filed 11–5–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90–NM–209–AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which currently requires inspection for cracks in the fuselage station 2598 upper bulkhead, which supports the horizontal stabilizer; and repair, if necessary. This action would require installation of the terminating modification for the inspections required by the current airworthiness directive. This proposal is prompted by reports of additional cracking detected by the inspections required by the current airworthiness directive. This condition, if not corrected, could result in loss of the horizontal stabilizer.

DATES: Comments must be received no later than December 27, 1990.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–209–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Steven C. Fox, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S; telephone (206) 227–2777. Mailing address: FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90–NM–209–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On April 13, 1990, the FAA issued AD 90–07–11, Amendment 39–6556 (55 FR 11161, March 27, 1990), applicable to certain Boeing Model 747 series airplanes, to require inspection for cracks in the fuselage station 2598 upper bulkhead, which supports the horizontal stabilizer, and repair, if necessary.

That action was prompted by a report of three cracks found in an upper bulkhead web. This condition, if not corrected, could result in loss of the horizontal stabilizer.

Since issuance of that AD, several additional cracks of the bulkhead web have been reported as a result of the required inspections. In light of this, the FAA has determined that, the previously optional terminating modification must be installed to provide an acceptable level of safety. Failure to detect and repair cracks could result in loss of the horizontal stabilizer.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2332, dated March 8, 1990, which describes procedures for visual and eddy current inspections to detect cracks in the fuselage station 2598 upper bulkhead web, repairs, and a terminating modification comprised of the addition of doublers that strengthen the bulkhead.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would supersede AD 90–07–11 with a new airworthiness directive that would also require incorporation of the terminating modification of the fuselage station 2598 bulkhead web within 2 years, in accordance with the service bulletin previously described.

There are approximately 224 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 174 airplanes of U.S. registry would be affected by this AD, that it would take approximately 150 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,044,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-6556 (55 FR 11161, March 27, 1990), AD 90-07-11, with the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, line numbers 002 through 226, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent loss of the horizontal stabilizer, accomplish the following:

A. Within the next 30 days after April 13, 1990 (the effective date of Amendment 39-6556), perform either a close detailed visual inspection or a high frequency eddy current (HFEC) inspection of the fuselage station 2598 bulkhead upper web in the corners of the access cut-out, in accordance with Boeing Alert Service Bulletin 747-53A2332, dated March 8, 1990. Repeat these inspections as follows:

1. If the immediately preceding inspection was accomplished visually, the next inspection must be conducted within 250 landings.

2. If the immediately preceding inspection was accomplished using HFEC, the next inspection must be conducted within 1,000 landings.

B. If cracks less than 1.5 inches are found, repair prior to further flight, in accordance with repair procedures defined in Boeing Alert Service Bulletin 747-53A2332, dated March 8, 1990, or accomplish the terminating modification specified in paragraph E. of this AD. Inspect repairs for cracks in accordance with paragraph A. of this AD, until the terminating modification specified in paragraph E. of this AD, is accomplished.

C. If cracks are found that are 1.5 inches or longer, modify prior to further flight by installing the terminating modification specified in paragraph E. of this AD.

D. Within the next 30 days after April 13, 1990 (the effective date of Amendment 39-6556), remove the fastener common to the web and the tab on the vertical stiffener, at each corner of the upper bulkhead cut-out, and perform a high frequency eddy current inspection of the open hole in accordance with Boeing Alert Service Bulletin 747-53A2332, dated March 8, 1990. If no cracks are found, replace the fastener with a 1/16-inch oversized equivalent fastener. If any cracks are found, prior to further flight, accomplish the repair and inspections required by paragraph B. of this AD, or modify prior to further flight in accordance with the terminating modification specified in paragraph E. of this AD.

E. Within the next 2 years after the effective date of this AD, accomplish the terminating modification specified in Boeing Alert Service Bulletin 747-53A2332, dated March 8, 1990. Installation of the modification constitutes terminating action for the inspections required by this AD.

F. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

Note: Any alternate means of compliance previously approved for paragraph G. of AD 90-07-11, Amendment 39-6556, constitutes an alternate means of compliance with paragraph F. of this AD.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on October 25, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26181 Filed 11-5-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-216-AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes Equipped With Forward and/or Aft Auxiliary Fuel Tanks

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 727 series airplanes, which would require either the installation of a check valve and a pressure actuated shutoff valve in the center wing fuel tank, or the deactivation of the auxiliary fuel system. This proposal is prompted by a report of an uncontrollable fuel leak from the fuel manifold in the center wing tank into a damaged auxiliary fuel tank that resulted in a large spill of fuel into the cargo compartment. This condition, if not corrected, could result in a fire.

DATES: Comments must be received no later than December 28, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-216-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport

Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Sulmo Mariano, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S; telephone (206) 227-2686. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-216-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

A recent incident, involving cracking of the honeycomb panels used for the aft auxiliary fuel tank on a Boeing Model 727 series airplane, permitted cabin air to pressurize the fuel tank box, which subsequently damaged the bladder cell. This event resulted in the uncontrolled leakage of fuel from the fuel manifold in the center wing tank into the damaged auxiliary fuel tank, which resulted in a massive spill of fuel in the aft cargo compartment. Investigation of the incident indicated there was no shutoff means to prevent such a spill. This condition, if not corrected, could lead to a fire in the cargo compartment.

The FAA has reviewed and approved Boeing Alert Service Bulletin 727-28A0067, Revision 1, dated July 5, 1990, which describes procedures for the installation of a check valve and a pressure actuated shutoff valve on the auxiliary fuel line in the center wing tank to prevent fuel leakage in the event of an auxiliary fuel system failure. The service bulletin also describes procedures for deactivation of the auxiliary fuel tank system.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require installation of a check valve and a pressure-actuated shutoff valve in accordance with the service bulletin previously described. In lieu of the installation, operators would be given the option to deactivate the auxiliary fuel tank system and to insert a placard in the cockpit indicating that the auxiliary fuel tanks are inoperative.

There are approximately 350 Boeing Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 210 airplanes of U.S. registry would be affected by this AD. Should an operator elect to accomplish the proposed installation, it would take approximately 240 manhours per airplane to accomplish the required actions, and the average labor cost would be $40 per manhour. Cost of required parts is estimated to be $18,460 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators who accomplish the installation is estimated to be $28,060 per airplane, or $5,892,600 for the U.S. fleet.

Should an operator elect to install the placard and deactivate the auxiliary fuel tank system, it would take approximately 17 manhours to accomplish the required actions, and the average labor cost would be $40 per manhour. The cost of required parts (a placard) is negligible. Based on these figures, the total cost impact of the AD on U.S. operators who accomplish the placarding and deactivation is estimated to be $680 per airplane, or $142,800 for the U.S. fleet.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13—[Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 727 series airplanes equipped with forward and/or aft auxiliary fuel tanks listed in Boeing Alert Service Bulletin 727-28A0067, Revision 1, dated July 5, 1990, certificated in any category. Compliance required as indicated, unless previously accomplished.

To eliminate the potential for a fire due to rupture of the auxiliary fuel tank, accomplish the following:

A. Within the next 180 days after the effective date of this AD, accomplish either subparagraph 1. or 2., below:

1. Install a check valve and a pressure actuated shutoff valve in the center wing tank in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 727-28A0067, Revision 1, dated July 5, 1990; or

2. Deactivate the auxiliary fuel system and insert a placard in the cockpit to indicate that the auxiliary fuel tank is inoperative, in accordance with Boeing Service Alert Bulletin 727-28A0067, Revision 1, dated July 5, 1990.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on October 26, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-26182 Filed 11-5-90; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3857-8]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Logan Airport and East Boston Parking Freeze

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the State Implementation Plan (SIP) submitted by the Commonwealth of Massachusetts. The intent of the SIP revision is to reduce vehicular emissions of carbon monoxide, hydrocarbons and nitrogen oxides. The pollutants contribute to the carbon monoxide and ozone air pollution problems in the Boston urbanized area. This SIP revision amends the Logan Airport Parking Freeze by increasing the types of parking spaces included, by committing to implement transportation control measures and by increasing the number of commercial spaces by 2,000 spaces, plus an amount equal to the number of employee parking spaces removed from use. The SIP revision also changes the area of coverage of parking freeze to include parts of East Boston adjacent to Logan Airport. The intended effect of this action is to propose approval of the changes to Massachusetts' SIP. This action is being taken under Section 110 of the Clean Air Act.

DATES: Comments must be received on or before December 6, 1990. Public comments on this document are requested and will be considered before taking final action on this SIP revision.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th Floor, Boston, MA 02203; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20560; and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Thomas F. Wholley (617) 565-3233; FTS 835-3233.

SUPPLEMENTARY INFORMATION: In submittals dated August 4, 1989, December 6, 1989 and March 23, 1990, the Massachusetts Department of Environmental Protection (DEP) proposed a revision to its State Implementation Plan (SIP) amending the Logan Airport Parking Freeze, 310 CMR 7.30, and inserting provisions for an East Boston Parking Freeze at 310 CMR 7.31.

Background

The Logan Airport Parking Freeze program was established on June 12, 1975 when EPA promulgated an amendment to the transportation control plan regulations for the Metropolitan Boston Intrastate Air Quality Control Region (40 FR 25152). The parking freeze was developed as one part of a comprehensive strategy to reduce air pollution caused by automobile emissions. The Boston Metropolitan Planning Organization (MPO) submitted to Massachusetts DEP the Logan Airport Parking Freeze program to be incorporated in the 1979 SIP (45 FR 61293) and again in the 1982 SIP (48 FR 51480). The Massachusetts Port Authority (Massport) was delegated the authority to implement the Logan Airport Parking Freeze by the Commonwealth of Massachusetts on October 8, 1975. Since the delegation, Massport has operated the program and submitted reports to EPA describing the implementation of the parking freeze.

The proposed SIP revision was submitted by the Boston MPO to the Massachusetts DEP in November of 1988. DEP proposed regulations in July of 1989 and held a hearing in August of 1989. A technical amendment regarding the boundary of the East Boston freeze area was proposed in December of 1989 and a hearing was held in January of 1990. In submittals to EPA dated August 4, 1989, December 6, 1989 and March 23, 1990, the Massachusetts DEP proposed a revision to its SIP.

Summary of SIP Revision

Types of Parking Spaces Included in the Freeze

The proposed SIP revision covers commercial, employee, Park and Fly and Rental Motor Vehicle parking spaces. Only commercial parking spaces were covered by the 1982 SIP parking freeze. But because each motor vehicle generates air pollution, regardless of the type of parking space it uses, it appears appropriate to include all airport-related parking in the freeze. EPA is interested in receiving comments on the types of parking spaces to be included in the parking freeze.

Number of Parking Spaces

The proposed SIP revision limits the number of commercial and employee parking spaces at Logan Airport to 19,315. No more than 7,100 spaces shall be employee spaces and no fewer than 12,215 shall be commercial. The SIP revision increases the existing number of commercial parking spaces (10,215) at Logan Airport by 2,000 and allows Massport to eliminate 2,000 employee spaces by relocation outside of the freeze area, or by promoting the use of alternate transportation by employees, within a three year period. The number of commercial spaces at Logan Airport can then be increased by a number equal to the number of employee parking spaces eliminated. The Park and Fly and Rental Motor Vehicle spaces will be frozen in East Boston at the number of spaces identified in an inventory prepared by the City of Boston and submitted to Massachusetts DEP. In addition, the SIP revision creates a category of restricted use parking spaces. These spaces can only be made available free of charge on up to ten days per calendar year during extreme peak travel periods. Each year, Massport must report on the use of restricted use parking spaces by dates, locations and numbers. If restricted use parking spaces are used on more than ten days in a calendar year, Massport must submit a plan and schedule for initiating actions to eliminate future need for restricted parking spaces. In the East Boston Parking Freeze area, the proposed SIP revision would freeze the

number of Park and Fly and Rental Motor Vehicle spaces at existing levels. EPA is interested in receiving comments on the numbers and types of parking spaces allowed under the parking freeze, on the conversion of employee to commercial parking and on the restricted use parking provisions.

Parking Freeze Area

The proposed SIP revision expands the area of the parking freeze to include all of Logan Airport and all of East Boston except for two northern parcels. The 1982 State Implementation Plan (SIP) only included Logan Airport in the parking freeze area. As a result, airport-related parking activities have developed in East Boston outside of Logan Airport, increasing traffic congestion and air pollution. EPA is interested in receiving comments on the area proposed to be covered by the parking freeze.

Transportation Management Programs

The 1982 SIP included limited transportation control measures for Logan Airport. Over the past several years, Massport has voluntarily implemented several transportation management programs, such as the water shuttle to Boston and bus service to remote lots south and west of Boston. The proposed SIP revision incorporates these measures and imposes additional obligations by requiring Massport to identify, analyze and implement specific transportation management programs which discourage vehicle travel to Logan Airport. These measures and programs include fringe parking lots, water shuttle service, mass transit improvements and pricing strategies. Each year, Massport will submit a status report on the transportation management programs to the City of Boston, the Boston Metropolitan Planning Organization, Massachusetts DEP and EPA. EPA solicits comments on the proposed transportation management program provisions.

Air Quality Impacts

The proposed SIP revision is designed to reduce vehicle miles of travel (VMT) by restricting the number of parking spaces serving Logan Airport and by providing alternative means of travel to Logan Airport. Employees and travellers will be encouraged to use alternative transportation to Logan Airport, leading to reduced VMT in the area. To the extent that reductions in local and regional VMT improve traffic flow, subsequent reductions in carbon monoxide and ozone may be achieved. Air quality improvements can be achieved by the proposed SIP revision for the following reasons. First, the inclusion of all airport-related parking spaces will impose a limit on the number of parking spaces available. Second, the area of the parking freeze will be expanded. Finally, the transportation management programs will provide alternative modes of travel to Logan Airport.

The proposed SIP revision allows employee spaces at Logan Airport to be replaced by commercial spaces. Traffic studies have revealed that employee spaces generate more vehicle trips to and from Logan Airport than commercial spaces. In addition, the implementation of transportation management programs will ensure that alternative modes of transportation to Logan Airport will be available. Convenient and reliable transportation, other than automobiles, is essential to minimizing VMT. EPA is interested in receiving comments on the air quality impacts of the proposed parking freeze measures.

EPA's review of this material indicates that the proposed SIP revision will result in improved air quality. EPA is therefore proposing to approve the Massachusetts SIP revision for the Logan Airport and East Boston Parking Freeze. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the *Addresses* section of this notice.

Proposed Action

EPA is proposing to approve the SIP revision to the Logan Airport and East Boston Parking Freeze.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for SIP revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

The administrator's decision to approve or disapprove the SIP revision will be based on whether it meets the requirements of section 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR part 51.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides.

Authority: 42 U.S.C. 7401–7642.

Dated: October 26, 1990.

Paul Keough,

Acting Regional Administrator Region I.

[FR Doc. 90–26234 Filed 11–5–90; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BPO–088–P]

RIN 0938–AE45

Medicare Program; Offset Medicare Payments to Individuals to Collect Past-Due Obligations Arising From Breach of Scholarship and Loan Contracts

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth the procedures to be followed for collection of past due amounts owed by individuals who breached contracts under certain scholarship and loan programs. The programs that would be affected are the National Health Service Corps Scholarship, the Physician Shortage Area Scholarship, and the Health Education Assistance Loan. These procedures would apply to those individuals who breached contracts under the scholarship and loan programs and who—

- Accept Medicare assignment for services;
- Are employed by or affiliated with a provider, Health Maintenance Organization, or Comprehensive

Medical Plan that receives Medicare payment for services; or

• Are members of a group practice that receives Medicare payment for services.

The regulation would implement section 4052 of the Omnibus Budget Reconciliation Act of 1987.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on January 7, 1991.

ADDRESSES: Mail comments to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: BPO–088–P, P.O. Box 26676, Baltimore, MD 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC., or

Room 132, East high Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments.

In commenting, please refer to file code BPO–088–P. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Marvin Dunkleberger (301) 966–7519.

SUPPLEMENTARY INFORMATION:

I. Background

The National Health Service Corps Scholarship (NHSCS), Physician Shortage Area Scholarship (PSAS), and the Health Education Assistance Loan (HEAL) programs are scholarship and loan programs sponsored by the Public Health Service (PHS). The NHSCS and PSAS programs provide scholarship funds for individuals training in health professions in exchange for a promise to serve in a health manpower shortage area for a specified period of time (one year for each year of scholarship received). If this agreement is breached, a financial obligation is incurred.

The HEAL program insures loans provided by non-Federal lenders to students in health professions schools. Students in various health-professions schools are eligible to participate. Borrowers are required to begin repayment of principle 9 months after they complete training. There is a maximum repayment period of 25 years. The Federal government is required to repay lenders in the case of default by borrowers under this program.

Section 4052 of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203), added a new section 1892 to the Social Security Act (the Act), that authorizes the Secretary of Health and Human Services to enter into a repayment agreement with any individual who fails to repay his or her obligation to the NHSCS, PSAS, and HEAL programs. Under the terms of the agreement, the individiual agrees to accept assignment for all Medicare services and have deductions made to repay the obligation according to a formula agreed to by the Secretary. The term "assignment" is used when an individual agrees to accept Medicare's determination of the reasonable charge amount as payment in full for covered services. The term "provider" includes all entities eligible to receive Medicare payment in accordance with an agreement under § 1866 of the Act.

Additionally, section 1892(a)(2)(C) and (a)(3) of the Act provides that if the individual refuses to enter into an agreement or breaches any provisions of the agreement, or if Medicare payment is insufficient to maintain the offset collection according to the agreed upon formula, the Secretary will immediately inform the Attorney General, who will pursue collection. The Secretary is required to exclude the individual from the Medicare program until the entire past due obligation has been repaid, unless the individual is a sole community practitioner or the sole source of essential specialized services in a community and the State requests that the individual not be excluded.

Section 1892(d) of the Act states that if the individual who enters into a repayment agreement is employed by or affiliated with a provider, Health Maintenance Organization (HMO), Comprehensive Medical Plan (CMP), or is a member of a group practice that submits bills under Medicare as a group rather than by individual physician, the Secretary will deduct amounts due from Medicare payments to the provider, HMO, CMP or group practice six months after it is given notification. The repayment agreement will be made in accordance with a formula and schedule agreed to by the Secretary, the individual and, in the case of an individual who is an employee of, or affiliated by a medical service agreement with such entities, the provider, organization, plan or group. The statute specifies that the provider having an agreement under section 1866 of the Act, or a CMP or HMO having a contract under sections 1833 or 1876 of the Act, respectively, has a right to collect the deducted amount, including accumulated interest, from the individual. In a separate provision, the statute also gives the same right to group practices.

Section 1892(e) of the Act also specifies that Medicare payment amounts that would otherwise be made to the individual, provider or other entity will be transferred from the trust fund to the general fund in the Treasury to be credited as payment of the individuals' past-due obligations.

II. Provisions of the Regulations

In accordance with section 1892 of the Act, we would set forth the procedures concerning the collection of past due amounts owed by individuals who breached contracts under the NHSCS, PSAS, and HEAL programs; and who receive Medicare payments for services or are employed by or affiliated with a provider that receives Medicare payment for services.

These proposed rules pertain only to the provisions HCFA would implement. The PHS will implement the establishment of the repayment agreements and will forward to the Medicare intermediaries and carriers, through the Health Care Financing Administration, the signed agreements that provide for the particulars of the offset of past due obligations arising from the breach of scholarship and loan contracts against Medicare payments.

We would amend 42 CFR part 405, subpart C to include the policies and procedures for repayment of scholarships and loans by adding a new § 405.380. Section 405.380(a) would specify the basis and purpose of the section (that is, to implement section 1892 of the Act regarding deductions from Medicare payments for services to offset amounts considered as past-due obligations under the NHSCS, PSAS, and HEAL programs).

In § 405.380(b), we would specify that if an individual has signed a repayment agreement with PHS and either accepts Medicare assignment for services or is employed by or affiliated with a provider that has an agreement or contract with Medicare, the intermediary or carrier would deduct amounts according to the formula and schedule as specified in the repayment agreement with PHS, the individual who breached the scholarship or loan obligation, and, if applicable, the provider.

In § 405.380(c)(1), we would specify that the Medicare carriers would begin to offset payments to the individuals 40 days after the date the repayment agreement is signed by PHS and the individual. In § 405.380(c)(2), we would specify that Medicare intermediaries would begin to offset payments to the providers six months after the intermediaries notify the providers of the amount to be deducted and the particular individuals to whom the deductions are attributable. Offset of payments would be made in accordance with the terms of the repayment agreement. If the individual ceases to be employed by the provider, HMO, or CMP, or leaves the group practice, no deduction would be made. Although not specified in the text of this proposed rule, the statute states that the provider has a right to collect the deducted amount, including accumulated interest, from the individual in accordance with the agreement.

In § 405.380(d), we would specify that if the individual refuses to enter a repayment agreement, or breaches any provision of the agreement, of if Medicare payment is insufficient to maintain the offset collection according to the agreed upon formula, the Secretary, within 30 days if feasible, informs the Attorney General. The statute states that the Secretary will immediately inform the Attorney General, who will pursue collection. For purposes of this regulation, we have determined that the statutory term "immediately" means as soon as possible, that is, generally within 30 days if feasible.

We would also specify that, in the same circumstances, the Secretary would exclude the individual from Medicare until the past-due obligation has been repaid, unless the individual is a sole community practitioner the sole source of essential specialized services in a community and the State requests that the individual not be excluded. If the State believes that an individual should not be excluded from the Medicare program, the State should forward a written justification to the following address:

Health Services and Resources Administration, Director, Division of Fiscal Services, Parklawn Building, room 1605, 5600 Fishers Lane, Rockville, Maryland 20857.

Finally, § 405.380(e) specifies that Medicare payment amounts that would otherwise be made to the individuals or providers would be transferred from the trust funds to the general fund in the Treasury to be credited as payment of the individuals' past-due obligations.

III. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any proposed rule that meets one of the E.O. 12291 criteria for a "major rule"; that is, that would be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed regulation sets forth the procedures concerning the collection of past due amounts owed by individuals who breached contracts under the NHSCS, HEAL, or PSAS programs and who receive Medicare payments for services or are employed by or affiliated with a provider that receives Medicare payment for services.

The Public Health Service estimates that the total amount owed to the Federal government as a result of breached contracts under the NHSCS was approximately $193 million and under the HEAL program approximately $133 million and under the PSAS program approximately $3 million, as of June 30, 1990. (Most of the individuals who were awarded scholarships under the PSAS program have repaid their obligations, and we expect to receive very few cases under this program.) We are unable to determine how much of the past due $329 million would be recouped annually because we do not know the number of repayment agreements that will be negotiated and because the terms of each can vary. The issuance of this proposed rule may encourage those individuals who have breached contracts under any one of these scholarship or loan progams to repay the financial obligation by some other means. Some individuals may continue to refuse to repay their obligation and thus would potentially be excluded from Medicare and be subject to further action by the Attorney General's Office.

We have determined that a regulatory impact analysis is not required for this rule because it would not have an annual imapct of $100 million or more, or meet any of the other E.O. 12291 criteria.

B. Regulatory Flexibility Act

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a proposed rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, physicians, providers, HMOs, and CMPs, and group practices are considered to be small entities. We also consider nurses who work on a consulting basis or who are self-employed to be small entities.

The provisions of this regulation would affect those individuals who have past due obligations under the NHSCS, HEAL or PSAS programs. As of June 30, 1990, there were approximately 1,344 individuals who had a past due obligation under the NHSCS; 4,316 individuals who had a past due obligation under the HEAL program; and 71 individuals who had a past due obligation under the PSAS program.

The NHSCS program provides service-conditional financial awards for students of allopathic and osteopathic medicine, dentistry, and other health professions. The average loan for the 1989–1990 school year was $24,551.54 and this figure changes annually. The HEAL program is a program of Federal insurance and provides educational loans in the school of medicine, dentistry, veterinary medicine, optometry, and podiatry. Loans for these academic fields of study are limited to a total of $80,000 for all years of education. The academic fields of pharmacy, public health and allied health are limited to a total of $50,000 for all years. No one has been awarded a loan under the PSAS program since 1977. Since the average amount owed by a physician under these programs is approximately $25,000 to $80,000 not including any accrued interest on the principle amount, the financial burden to these individuals may be large; however, the repayment agreement would stipulate how much is to be offset from each Medicare payment until the full oblgiation is repaid. The financial impact is, therefore, expected to be much less significant on a monthly or annual basis.

These provisions would also affect Medicare providers, HMOs, CMPs, or group practices that employ or have a medical services agreement with an individual who has breached a contract under the NHSCS, HEAL, or PSAS program. If that individual has agreed to have their Medicare payments reduced this will affect their employer's

Medicare earnings. The employer can offset the individual's salary, as stipulated in the repayment agreement, in order to recover the amount that is offset by Medicare. This could require additional payroll recordkeeping effort on the part of the employer. If the organization does not recoup these monies from the individual, however, they will not realize their full earnings. The employer is also affected if an individual is excluded from Medicare because of his/her refusal to enter into a repayment agreement. We are unable to determine the number of providers, HMOs, CMPs, or group practices that would be affected by this proposal; however, the individual's financial responsibility does not shift from the individual to his or her employer.

Since the number of individuals who would be affected by this proposed rule is relatively small and because the employer is afforded the right to collect the amounts offset plus interest from the individual, we believe this proposal would not have a significant impact on a substantial number of providers, HMOs, CMPs, or group practices.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a proposed rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital which is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

Since this proposed rule would potentially affect certain individuals and their providers, HMOs, CMPs, or members of group practices, this proposal would also affect rural hospitals since they are also considered providers. We are not preparing a rural impact statement since we have determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on the operations of a substantial number of small rural hospitals.

IV. Information Collection Requirement

The proposed notice does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

V. Responses to Comments

Because of the large number of items of correspondence we normally receive on proposed regulations, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "Date" section of this proposed rule, and, if we proceed with a final rule, we will respond to the comments in the final rule.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Cost-based reimbursement, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers Reasonable charges, Reporting requirements, Rural areas, Prospective payment system, X-rays.

42 CFR part 405, subpart C would be amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

1. The authority citation for part 405, subpart C is revised to read as follows:

Authority: Sections 1102, 1815, 1833, 1842, 1866, 1870, 1871, 1879, and 1892 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395l, 1395u, 1395cc, 1395gg, 1395hh, 1395pp and 1395ccc) and 31 U.S.C. 3711.

Subpart C—Suspension of Payment, Recovery of Overpayments, and Repayment of Scholarships and Loans

2. The title of subpart C is revised to read as set forth above.

3. A new undesignated center heading a new § 405.380 are added to read as follows:

Repayment of Scholarships and Loans

§ 405.380 Collection of past-due amounts on scholarship and loan programs.

(a) *Basis and purpose.* This section implements section 1892 of the Act, which authorizes the Secretary to deduct from Medicare payments for services amounts considered as past-due obligations under the National Health Service Corps Scholarship program, the Physician Shortage Area Scholarship program, and the Health Education Assistance Loan program.

(b) *Offsetting against Medicare payment.* Medicare carriers and intermediaries offset against Medicare payments in accordance with the signed repayment agreement between the Public Health Service and individuals who have breached their scholarship or loan obligations and who—

(1) Accept Medicare assignments for services;

(2) Are employed by or affiliated with a provider, HMO, or Comprehensive Medical Plan (CMP) that receives Medicare payment for services; or

(3) Are members of a group practice that receives Medicare payment for services.

For purposes of this section, "provider" includes all entities eligible to receive Medicare payment in accordance with an agreement under section 1866 of the Act.

(c) *Beginning of offset.* (1) The Medicare carrier offsets Medicare payments 40 days after the agreement is signed by PHS and the individual.

(2) The Medicare intermediary offsets payments beginning six months after it notifies the provider, HMO, CMP or group practice of the amount to be deducted and the particular individuals to whom the deductions are attributable. Offset of payments is made in accordance with the terms of the repayment agreement. If the individual ceases to be employed by the provider, HMO, or CMP, or leaves the group practice, no deduction is made.

(d) *Refusal to offset against Medicare payment.* If the individual refuses to enter into a repayment agreement, or breaches any provision of the agreement, or if Medicare payment is insufficient to maintain the offset collection according to the agreed upon formula, then—

(1) The Secretary, within 30 days if feasible, informs the Attorney General; and

(2) The Secretary excludes the individual from Medicare until the entire past-due obligation has been repaid, unless the individual is a sole community practitioner the sole source of essential specialized services in a community and the State requests that the individual not be excluded.

(e) *Disposition of funds withheld.* Medicare payment amounts, collected under paragraph (b) of this section, that would otherwise be made to the individual, provider, HMO, CMP or group practice, are transferred by the intermediary or carrier from the trust funds to the general fund in the Treasury to be credited as payment of the individuals' past-due obligations in accordance with PHS instructions on transferring payment amounts to the Treasury.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital

Insurance: No. 13.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 18, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: October 4, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 90–26137 Filed 11–5–90; 8:45 am]

BILLING CODE 4120–01–M

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42 CFR Part 413

[BPD–649–P]

RIN 0938–AE76

Medicare Program; Limit on Payment for the Cost of Intraocular Lens Furnished by a Hospital on Outpatient Basis

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth a limit on payment for the reasonable cost of an intraocular lens inserted on an outpatient basis during or subsequent to cataract surgery at a hospital.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, by 5 p.m. on January 7, 1991.

ADDRESSES: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–649–P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments.

In commenting, please refer to file code BPD–649–P. Comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Linda McKenna (301) 966–4530.

SUPPLEMENTARY INFORMATION:

I. Background

Section 9343(a) of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–509) amended section 1833(a)(4) of the Social Security Act (the Act) and added section 1833(i)(3) to the Act which, taken together, specify that payment to hospitals for facility servcies furnished in connection with performing ambulatory surgical center (ASC) procedures is to be based, in part, on the prospectively determined rates the Medicare program pays for the same procedures when performed in an ASC (in accordance with section 1833(i)(2)(A) of the Act). Aggregate payment to hospitals for facility services furnished during a cost reporting period in connection with ASC procedures is equal to the lesser of the following—

- The lower of the hospital's reasonable costs or customary charge for the services, reduced by deductibles and coninsurance (generally referred to as the hospital-specific amount); or
- A blended payment amount, 50 percent of which is comprised of the hospital-specific amount, and the other 50 percent is comprised of 80 percent of the ASC standard overhead amounts (referred to as the ASC payment amount), net of deductible amounts.

Section 4063(b) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203) amended section 1833(i)(2)(A) of the Act to require that payment of an intraocular lens (IOL) inserted during or subsequent to cataract surgery performed in an ASC be included in the ASC facility payment rate. The amendment also required that the payment amount for the IOL be reasonable and related to the cost of acquiring certain types of lenses.

On February 8, 1990, we published a final notice in the **Federal Register** (55 FR 4526). In that notice, we revised the ASC payment rates and incorporated into the payment rates a $200 allowance for IOLs inserted during or subsequent to cataract surgery. In another notice with comment that was simultaneously published on February 8, 1990 in the **Federal Register** (55 FR 4577), we updated the ASC payment rates but the IOL allowance remained $200. The revised payment rates became effective for procedures performed on or after March 12, 1990. The ASC payment rates have been revised, effective for services furnished on or after July 1, 1990, as published in the **Federal Register** (55 FR 27690) on July 5, 1990.

Prior to the implementation of section 4063 of Public Law 100–203, IOLs were not considered to be a facility service that was paid under the ASC payment rates for an ASC, or subject to the blended payment method for hospitals. Payment for IOLs furnished by ASCs was based on reasonable charges and payment for IOLs furnished by hospitals was based on reasonable costs.

As a result of the February 8, 1990 final notice (55 FR 4526), IOLs furnished on or after March 12, 1990 are considered to be ASC facility services and, as such, are paid under the ASC payment rates when furnished by ASCs and under the blended payment method when furnished by hospitals. Although payment to hospitals for IOLs is limited to $200 in calculating the ASC portion of the blend, the hospital-specific portion of the blend, which is not subject to this $200 limit, continues to recognize the hospitals' reasonable cost of furnishing the IOL.

In addition, we published a proposed notice in the **Federal Register** (55 FR 2150) on May 23, 1990, under which we would withdraw Medicare payment for certain investigational IOLs. However, under that notice, we would continue to pay for IOLs that have been approved by the Food and Drug Administration (FDA) and IOLs in "adjunct studies" (investigations that are made after the basic safety adn effectiveness of an IOL has been established by the FDA, which involve large numbers of patients for the purpose of collecting data on infrequently occurring complications) that are awaiting FDA approval.

II. Provisions of this Proposed Rule

Section 1861(v)(1)(A) of the Act (implemented by regulations at 42 CFR 413.30) authorizes the Secretary to establish limits on allowable costs incurred by a provider of services that may be paid under the Medicare program, based on costs estimated by HCFA to be necessary for the efficient delivery of needed health services. The limits may be applied to direct or indirect overall costs or to the costs incurred for specific items or services furnished by the provider. Under this authority, the limit on payment to a hospital on an outpatient basis for the reasonable cost of an IOL inserted during or subsequent to cataract surgery would equal the amount paid to an ASC for furnishing an IOL (currently $200).

The $200 allowance for IOLs incorporated into the ASC payment rates is based on a sample study of ASCs in which the Office of the Inspector General (OIG) determined that the majority of the sampled facilities had negotiated an average lens price of $200. OIG has continued to study the pricing of IOLs and has issued three more recent reports of its findings, one in late 1989 and two early in 1990. In the

first study, OIG found that prices for IOLs on the Federal Supply Schedule (FSS) ranged from $95 to $198 and that the Department of Veterans Affairs (VA) medical centers and military hospitals could purchase IOLs for under $200 outside of the FSS. In the second study, OIG found that the Indian Health Service hospitals paid on average $155 for IOLs from manufacturers not on the FSS. In the third study, OIG concluded that Canadian hospitals can purchase IOLS from American manufacturers for an average price of $110 (U.S. dollars). We see no reason why hospitals cannot purchase IOLs at the same or lower price as ASCs. Hospitals and ASCs purchase IOLs from the same manufacturers; therefore, we believe that hospitals should be able to purchase IOLs at prices that are comparable to those paid by separately certified ASCs.

This rule, therefore, proposes the establishment of a cost limit (that equals the IOL allowance included in the ASC facility payment rate) on a hospital's reasonable cost for obtaining an IOL when an ASC procedure, requiring the insertion of an IOL, is performed in a hospital on an outpatient basis. Hospitals, like ASCs, should be able to purchase safe and effective IOLs for $200. ASCs are limited to a $200 allowance for IOLs, without exceptions. Therefore, we would add a new paragraph (i) to § 413.30 and revise § 413.118 to establish this limit on reasonable cost, and provide that there would be no exemptions or exceptions to this reasonable cost limit.

III. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any proposed rule such as this one that meets one of the E.O. 12291 criteria for a "major rule"; that is, that would be likely to result in—

- An annual effect on the economy if $100 million or more;
- A major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed cost limit of $200 for IOLs furnished in hospitals on an outpatient basis is not expected to produce any economic effects that would meet the E.O. 12291 criteria for a major rule. Therefore, we have not prepared a regulatory impact analysis.

B. Regulatory Flexibility Act

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a proposed rule such as this one would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all hospitals to be small entities.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a proposed rule such as this one may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds and its located outside of a Metropolitan Statistical Area.

In the notice of February 8, 1990 (55 FR 4526) that revised the payment methodology for ambulatory surgical centers (ASCs), we estimated that hospials acquire IOLs for an average cost of $350. Now, we estimate that hospitals are acquiring IOLs at an average cost of $240. Based on a payment blend of 50 percent of the hospital-specific amount and 50 percent of the $200 ASC allowance for an IOL, the Medicare program is paying an average of $220 for each IOL inserted during or subsequent to cataract surgery.

While many hospitals perform procedures involving IOLs, the impact of the proposed $200 limit on the cost of purchasing IOLs is expected to reduce Medicare payments to hospitals by about $20 per IOL. Therefore , we have determined, and the Secretary certifies that this proposed rule would not have a significant effect on the operations of a substantial number of small rural hospitals or on other hospitals. Accordingly, we have not prepared a regulatory flexibility analysis.

IV. Other Required Information

A. Paperwork Reduction Act

This proposed rule does not impose information collection requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 through 3520).

B. Public Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, we will consider all comments that are received by the date and time specified in the "DATE" section of this preamble, and, if we proceed with a final rule, we will respond to the proceed with a final rule, we will respond to the comments in the preamble of that rule.

List of Subjects in 42 CFR Part 413

Health facilities, Medicare, Reporting and recordkeeping requirements.

42 CFR chapter IV would be amended as set forth below:

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Subchapter B—Medicare Programs

Part 413 is amended as follows:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES.

A. The authority citation for 413 is revised to read as follows:

Authority: Sections 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1883 and 1886 of the Social Security Act (42 U.S.C. 1302, 1395f(b), 1395g, 13951(a), 1395x(v), 1395hh, 1395rr, 1395tt and 1395ww) and sec. 104(c) of Pub. L. 100-360, as amended by sec. 608(d)(3) of Pub. L. 100-485 (42 U.S.C. 1395ww (note)) and sec. 101(c) of Pub. L. 101-234.

B. In subpart C, § 413.30, a new paragraph (i) is added to read as follows:

Subpart C—Limits on Cost Reimbursement

§ 413.30 Limitations on reimbursable costs.

* * * * *

(i) *Intraocular lens furnished on a hospital outpatient basis.* Provisions governing limits on reasonable costs incurred by a hospital for furnishing an intraocular lens inserted on an outpatient hospital basis during or subsequent to cataract surgery are located at § 413.118(c)(3). The provisions concerning exemptions and exceptions in paragraphs (e) and (f) of this section, respectively, do not apply to cost limits established under § 413.118(c)(3).

C. In subpart F, § 413.118, paragraph (a) is revised, paragraph (c)(3), added, and paragraph (C) introductory text,

(c)(1) and (c)(2) are republished to read as follows:

Subpart F—Specific Categories of Costs

§ 413.118 Payment for facility services related to covered ASC surgical procedures performed on an outpatient basis.

(a) *Basis and scope.* (1) This section implements section 1833(i)(3) of the Act and establishes the method for determining Medicare payments for services related to covered ambulatory surgical center (ASC) procedures performed in a hospital on an outpatient basis.

(2) Paragraph (c)(3) of this section, implements section 1861(v)(1)(A) of the Act and established a limit on a hospital's reasonable costs for Medicare payment for an intraocular lens inserted on an outpatient hospital basis during or subsequent to cataract surgery.

(3) This section does not apply to services furnished by an ASC operated by a hospital that has an agreement with HCFA to be paid in accordance with § 416.30 of this chapter. (For regulations governing ASCs see part 416 of this chapter.)

* * * * *

(c) *Payment principle.* The aggregate amount of payments for facility services, furnished in a hospital on an outpatient basis, that are related to covered ASC surgical procedures (covered under § 416.65 of this chapter) is equal to the lesser of—

(1) The hospital's reasonable cost or customary charges, as determined in accordance with § 413.13, reduced by deductibles and coinsurance; or

(2) The blended payment amount as described in paragraph (d) of this section, which is based on hospital-specific cost and charge data and rates paid to free-standing ASCs.

(3) *Special rules for determining the reasonable cost of an intraocular lens.* (i) For purposes of paragraph (c)(1) of this section, a hospital's "reasonable cost" is subject to a cost limit established under § 413.30 and paragraph (c)(3)(ii) of this section, for cost incurred for an intraocular lens.

(ii) The limit on payment to a hospital for the reasonable cost of an intraocular lens inserted on an outpatient basis during or subsequent to cataract surgery equals the amount payable to an ASC for an intraocular lens, as published in the **Federal Register**. That amount constitutes the amount of the limit established under this paragraph. A separate notice in the **Federal Register** to establish the amount of this limit is not required.

(iii) Neither an exemption under § 413.30(e) of this part nor an exception under § 413.30 (f) of this part is available in determining the payment amount under paragaph (c)(3)(ii) of this section.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplemental Medical Insurance)

Dated: July 26, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved August 29, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 90-26135 Filed 11-5-90; 8:45 am]

BILLING CODE 4120-01-M

Notices

Federal Register
Vol. 55, No. 215
Tuesday, November 6, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Members of Performance Review Boards

AGENCY: U.S. Department of Agriculture.

ACTION: Notice.

SUMMARY: This document cancels the list of Performance Review Board members published November 7, 1989 54 FR 46754, as amended December 19, 1989, 54 FR 51906, and gives notice of new Performance Review Board members.

EFFECTIVE DATE: November 6, 1990.

FOR FURTHER INFORMATION CONTACT: Mary Ellen Recchia, Chief, Compensation, Employment and Performance Management Staff, Office of Personnel, U.S. Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, DC 20250, (202) 447–2830.

The membership of the U.S. Department of Agriculture's Performance Review Boards For Fiscal Year 1990 include:

Duane C. Acker
Rolland E. Anderson, Jr.
Joan M. Arnoldi
LaVerne G. Ausman
Franklin E. Bailey
Catherine A. Bertini
Keith D. Bjerke
Gary R. Blumenthal
Angelena V. Bracht
Gary C. Byrne
Mary E. Carter
James E. Cason
Charles E. Caudill
Kenneth C. Clayton
Keith J. Collins
Kathleen H. Connelly
Lester M. Crawford
Richard T. Crowder
Kenneth L. Deavers
Stephen B. Dewhurst
James R. Donald
John C. Foltz
James R. Franks
James Frazier, Jr.
John Frydenlund
David R. Galliart
Bruce L. Gardner
William E. Gardner, Jr.
Margaret O'K. Glavin
James W Glosser
John T. Golden
Roy M. Gray
Earl C. Hadlock
Daniel D. Haley
James V. Hansen
Glenn J. Hertzler, Jr.
Charles E. Hess
Joseph H. Howard
William J. Hudnall
Jo Ann C. Jenkins
Allan S. Johnson
Myron D. Johnsrud
John Patrick Jordon
James M. Kelly
Fay S. Landers
John E. Lee, Jr.
Linda P. Massaro
Terry L. Medley
John A. Miranowski
James R. Moseley
Everett L. Moseley
Harry C. Mussman
Betty Jo Nelsen
Jack C. Parnell
Ronald D. Plowman
Alan C. Raul
F. Dale Robertson
Bobby H. Robinson
Eldon W. Ross
Jeffery Rush, Jr.
Judith A. Segal
Carol M. Seymour
Robert E. Sherman
Kelly Shipp
Larry B. Slagle
Dallas R. Smith
Jo Ann R. Smith
Leon Snead
W. Scott Steele
Daniel A. Sumner
Roland R. Vautour
Ann M. Veneman
Adis M. Vila
Jetit B. Wilds, Jr.
Edward M. Wilson
Larry Wilson, Jr.
Jane A. Wittmeyer

Alternates

Stephen N. Abrams
Richard D. Allen
John H. Arnesen
Gerald A. Bange
Donald M. Bay
Louis G. Bennett
Joe Bruce Blanton
John S. Bottum
George A. Braley
Sally Buikema
John B. Cambell
Ann C. Carey
William D. Carlson
David T. Chen
Kenneth L. Deavers
Rachel Dobshia-Scioscia
Rosina B. Ducrest
John L. Evans
Susan B. Fertig-Dyks
Mitchell R. Geasler
Charles R. Gillum
Clare I. Harris
Paula F. Hayes
Donald F. Husnik
Jonathan I. Kislak
Edward B. Knipling
John P. Kratzke
Joseph J. Leo
George M. Leonard
Richard Long
Gary K. Madson
Philip L. Mackie
Kenneth O. McDougall
Robert B. Melland
Susan K. Nelson
Patrick M. O'Brien
John L. Okay
Floy E. Payton
Ronald J. Prucha
William L. Rice
William J. Riley, Jr.
Virgil M. Rosendale
Sarita G. Schotta
John A. Stevenson
Alejandro B. Thiermann
Lawrence Wachs
Marilyn G. Wagner

Dated: October 31, 1990.

Clayton Yeutter,

Secretary.

[FR Doc. 90–26216 Filed 11–5–90; 8:45 am]

BILLING CODE 3410–96–M

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for Pacific Northwest Region, Oregon and Washington

AGENCY: Forest Service, USDA.

ACTION: Correction notice.

SUMMARY: On February 26, 1990 the Secretary of Agriculture signed an interim rule amending the administrative appeal procedures 36 CFR part 217 of the Forest Service to require publication of legal notice in a newspaper of general circulation of all decisions subject to appeal. This newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested and affected by a specific decision.

The list of newspapers that would be used by all ranger districts, forests, and the Regional Office of the Pacific Northwest Region to publish legal notice of all decisions subject to appeal under 36 CFR part 217 was printed in the **Federal Register** March 14, 1990 (55 FR 9476). Two correction notices were subsequently printed in the **Federal Register** on April 23, 1990 (55 FR 15256) and on June 13, 1990 (55 FR 23954).

This correction notice updates the list of the newspapers that will be used by Forest Supervisor and District Rangers on the Ochoco National Forest to inform interested members of the public of all decisions subject to appeal under 36 CFR part 217.

With this correction notice and the previous mentioned notices the listed newspapers to be used for publication of legal notices of appealable decisions for the Pacific Northwest Region is hereby established for fiscal year 1991.

DATES: Part 217.5(d) states, that Forest Service shall through **Federal Register** notice, advise the public of the principal newspaper to be utilized for publishing legal notices and additional newspapers expected to use for purposes of providing additional notice, at least twice annually, in April and in October.

FOR FURTHER INFORMATION CONTACT: Elton Thomas, Regional Appeals Coordinator, Pacific Northwest Region, P.O. Box 3623, Portland, Oregon 97208–3623, phone: (503) 326–2322.

SUPPLEMENTARY INFORMATION: Ochoco National Forest Forest Supervisor and District Rangers will publish legal notices of their respective decisions in the following newspapers:

Ochoco Forest Supervisor decisions:
The Bulletin, Bend, Oregon
Newspaper providing additional notice of Ochoco Forest Supervisor decisions:
Burns Times/Herald, Burns, Oregon
Central Oregonian, Prineville, Oregon
Big Summit District Ranger decisions:
The Bulletin, Bend, Oregon
Crooked River National Grassland District Ranger decisions:
The Bulletin, Bend, Oregon
Newspaper providing additional notice of Grassland decisions:
Madras Pioneer, Madras, Oregon
Paulina District Ranger decisions:
The Bulletin, Bend, Oregon
Newspaper providing additional notice of Paulina decisions:

Blue Mountain Eagle, John Day, Oregon
Prineville District Ranger decisions:
The Bulletin, Bend, Oregon
Newspaper providing additional notice of Prineville decisions:
Central Oregonian, Prineville, Oregon
Snow Mountain District Ranger decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of Snow Mountain decisions:
Burns Times/Herald, Burns, Oregon

Dated: October 26, 1990.

Mary Jo Lavin,

Acting Regional Forester.

[FR Doc. 90-26203 Filed 11-5-90; 8:45 am]

BILLING CODE 3410-11-M

Eagle Rock and Granite Timber Sales, Colville National Forest, Ferry County, WA

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service, USDA, will prepare an environmental impact statement (EIS) on a proposal to harvest and regenerate timber and to construct and reconstruct roads. The proposed projects will be in compliance with the Forest Land and Resource Management Plan (The Plan) which provides the overall guidance for management of this area for the next ten years. The projects are proposed within portions of the South Fork O'Brien Creek, Rabbit Creek, and South Fork Rabbit Creek drainages on the Republic Ranger District in fiscal year 1993. The Colville National Forest invites written comments and suggestions on the scope of the analysis. The agency will give notice of the full environmental analysis and decision making process that will occur on the proposal so as to provide interested and affected people awareness as to how they may participate and contribute in the final decision.

DATES: Comments concerning the scope of the analysis should be received in writing by February 1, 1991.

ADDRESSES: Send written comments and suggestions concerning the management of this area to Patricia Egan, District Ranger, P.O. Box 468, Republic, WA 99166.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed project work and EIS should be directed to Harv Skjerven, Timber Management Assistant, P.O. Box 468, Republic, WA 99166 (telephone: (509) 775-3305).

SUPPLEMENTARY INFORMATION: The proposal includes harvesting timber and constructing roads on Eagle and Granite timber sales. This analysis will evaluate a range of alternatives addressing the Forest Service proposal to harvest 5.0 MMBF of timber from approximately 500 acres while constructing 6.0 miles of roads in the Eagle Rock timber sale and to harvest 5.0 MMBF of timber from approximately 500 acres while constructing 7.0 miles of road in the Granite timber sale. The area being analyzed is approximately 20,000 acres. The Forest Service is the Lead Agency. Edward L. Schultz, Forest Supervisor, Colville National Forest is the responsible official.

The Draft EIS will be tiered to The Plan (December 1988). The Forest Land and Resource Management Plan's Management Area direction for this analysis area is approximately 60% Wood/Forage, 15% Scenic/Timber, 10% Recreation, 5% Winter Range and 5% Scenic/Winter Range. The proposed project includes portions of the Thirteen Mile, Bald Snow and Cougar Mountain Roadless Areas which were considered but not selected for Wilderness designation. The analysis area is adjacent to a large area designated Recreation/Wildlife in Chapter IV of the Plan.

Preliminary issues identified are unroaded areas, recreation trails sensitive plants and animals, visuals, water quality, timber production, and noxious weed control.

A range of alternatives will be considered, including a no-action alternative. Based on the issues gathered through scoping, the action alternatives will vary in (1) the amount and location of acres considered for treatment, (2) the amount of road constructed for access, (3) the silvicultural and post-harvest treatment prescribed, and (4) the number, type and location of other integrated resource projects.

Initial scoping began in September, 1990. Scoping will include identifying issues; determining alternative driving issues; and identifying the objectives for the alternatives. An informal public meeting will be held at the Republic Ranger District office on October 22, 1990. The Forest Service is seeking information, comments, and assistance from other agencies, organization or individuals who may be interested in or affected by the proposed projects. This input will be used in preparation of the draft EIS. Your comments are appreciated throughout the analysis process. The draft EIS is to be filed with the Environmental Protection Agency (EPA) and to be available for public review by January 1992. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations and members of the public for their review and comment. EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register**. It is important that those interested in the management of the Colville National Forest participate at that time.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v *Hodel*, 803 f. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.).

The final EIS is scheduled for completion by June, 1992. In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period for the draft EIS. Edward L. Schultz, Forest Supervisor, is the Responsible Official. He will decide which, if any, of the proposed project alternatives will be implemented. His decision and reasons

for the decision will be documented in the Record of Decision, which will be subject to Forest Service Appeal Regulations (36 CFR part 217).

Dated: October 23, 1990.

Patrick J. Gallagher,

Acting Forest Supervisor.

[FR Doc. 90-26196 Filed 11-5-90; 8:45 am]

BILLING CODE 3410-11-M

Ed, North Slope Helicopter, Saddle, and Spanish Timber Sales, Ochoco National Forest, Grant and Wheeler Counties, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, USDA, will prepare an environmental impact statement (EIS) for the North Slope Timber Sales. The purpose of the EIS will be to develop and evaluate a range of alternatives for timber harvest and road construction for four different timber sale proposals. The alternatives will include a no action alternative which will defer the entry into this area for this planning period and additional alternatives responding to issues generated during the scoping process. The proposed project will be in compliance with the direction in the Ochoco National Forest Land and Resource Managment Plan which provides the overall guidance for management of the area and the proposed projects for the next ten to fifteen years. The agency invites written comments on the scope of this project. In addition, the agency gives notice of this analysis so that interested and affected parties are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope and implementation of this proposal must be received by January 15, 1991.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to David Poucher, District Ranger, Paulina Ranger District, HC 68 Box 6015, Paulina, OR 97751.

FOR FURTHER INFORMATION CONTACT: Questions and comments about this EIS should be directed to Rick Metzger, District Resource Officer, Paulina Ranger District, phone (503) 447-3713.

SUPPLEMENTARY INFORMATION: The Paulina Ranger District is beginning the process of implementing the management direction found in the Ochoco National Forest Land and Resource Management Plan for the Rock Creek and Cottonwood Creek drainages. Portions of these two drainages have been allocated to management areas from which timber outputs are scheduled. Harvesting scenarios will be developed for the next 10 to 15 year period to access the area, supply timber outputs and implement other resource projects to achieve the desired future condition for the affected management areas.

The Rock Creek area has twice been considered for wilderness designation; once under RARE II and again during the proceedings for the Oregon Wilderness Act of 1984. In both cases, the result was nonwilderness. Prior to the Wilderness Act of 1984, the Cottonwood area was part of the much larger parcel referred to as the Canyons Roadless Area. This larger area also contained the now officially designated Black Canyon Wilderness. The Canyon Roadless Area was subdivided into Cottonwood and Black Canyon because of a major developed road that bisected it. The Cottonwood area was included in the RARE II inventory, but was not included in the 1984 Act.

The Ochoco National Forest Land and Resource Management Plan made the determination of how lands are to be managed in these drainages for the next 10 to 15 year period. Direction for these areas includes management area allocations with definitions of resource emphasis and desired future condition. A large portion of these two drainages were allocated to unroaded management (MA-F8 Rock Creek/Cottonwood Creek, 11,820 acres) which emphasizes recreation, soil, water and fishery resources. There are also a total of five different management areas in these drainages from which timber outputs are scheduled over the next 10 to 15 years. These management areas and their emphasis are as follows:

1. MA-F9 (Rock Creek/Cottonwood Creek Unroaded Helicopter Area), Allow timber harvest while protecting the anadromous fishery, sensitive soils on steep slopes, and big game habitat.
2. MA-F14 (Dispersed Recreation), Provide and maintain a near-natural setting for people to utilize while pursuing outdoor recreation experiences.
3. MA-F15 (Riparian), Manage streamside vegetation and habitat to maintain or improve water quality.
4. MA-F22 (General Forest), Produce timber and forage while meeting the Forest-Wide Standards and Guidelines for all resources. In ponderosa pine stands, management will emphasize production of high value (quality) timber.
5. MA-F26 (Visual Management Corridors), Maintain the natural appearing character of the Forest along major travel routes, where management activities are usually not evident or are visually subordinate to the surrounding landscape.

The makeup of the proposed timber sale areas, with respect to the management areas involved, is as follows: Ed, 100 percent (MA-F22); North Slope Helicopter 98 percent (MA-F9), 1 percent (MA-F15), 1 percent (MA-F22); Saddle 98 percent (MA-F22), 1 percent (MA-F26),1 percent (MA-F14); and Spanish 98 percent (MA-F22), 1 percent (MA-F15), 1 percent (MA-F14).

The District has done some preliminary scoping and has developed a tentative list of issues which include the following: Soils, water quality, anadromous fisheries, potential wild and scenic river eligibility for Cottonwood Creek, roads, old growth, wildlife, visual quality, and trails.

Public participation will be especially important at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies, and other individuals or organizations who may be interested in or affected by the proposed actions. This information will be used in preparation of the draft EIS. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental process.
4. Exploring additional alternatives and scheduling scenarios for the generation of timber outputs from these areas.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

A draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by Sept. 1991. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. EPA will publish a notice of availability of the draft EIS in the **Federal Register**.

The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register**. It is very important that those interested in the management of the Ochoco National Forest participate again at that time. To assist the Forest Service in identifying

and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *Civy of Angoon* v. *Hodel*, 803 f. 2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate both in the development of issues at the scoping stage and DEIS comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible.

The final EIS is scheduled to be completed by July 1992. in the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal. The Forest Supervisor, Ochoco National Forest, is the responsible official. As the responsible official he/she will document the decision and reasons for the decision in a record of decision. That decision will be subject to Forest Service appeal regulations (36 CFR part 217).

Dated: October 29, 1990.

Glenda L. Wilson,

Acting Forest Supervisor.

[FR Doc. 90-26197 Filed 11-5-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 41-90]

Foreign-Trade Zone 39; Dallas/Fort Worth, TX; Application for Subzone GM Auto Assembly Plant, Arlington, TX

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Dallas/Fort Worth International Airport Board, grantee of FTZ 39, requesting special-purpose subzone status for the automobile assembly plant of General Motors Corporation (GM) located in Arlington, Texas, adjacent to the Dallas/Fort Worth Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 22, 1990.

The plant (248 acres) is located on Highway 360 at Abram Street in Arlington, Texas, some 16 miles west of Dallas. The facility employs 4,500 persons and is used to produce full-size passenger automobiles. Some 2 percent of vehicle value consists of dutiable components, such as radios, wire harnesses, instrument panel pads, and steering wheels. About 7 percent of the vehicles are exported.

Zone procedures would exempt GM from Customs duty payments on the foreign components used in its exports. On domestic sales, the company would be able to choose the duty rate on finished autos (2.5%) for the foreign-sourced components (average duty rate 4.3%). The application indicates that the savings would help reduce costs and improve the plant's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been approved to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Paul Rimmer, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, 5850 San Felipe Street, Houston, Texas 77057-3012; and Colonel William D. Brown, District Engineer, U.S. Army Engineer District Fort Worth, P.O. Box 17300, Fort Worth, Texas 76102-0300.

Comments concerning the proposed zone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 21, 1990.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, Room 7A5, 1100 Commerce Street, Dallas, TX 75242

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Room 4213, Washington, DC 20230.

Dated: October 31, 1990.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90-26187 Filed 11-5-90; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-201-601]

Preliminary Results of Antidumping Duty Administrative Review: Certain Fresh Cut Flowers From Mexico

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In response to a request by the Floral Trade Council, the petitioner, and three producers/exporters in Mexico, the Department of Commerce is conducting an administrative review of the antidumping duty order on certain fresh cut flowers from Mexico. The review covers Tzitzic Tareta, Florex, and Visaflor, producers/exporters of this merchandise to the United States during the period April 1, 1988, through March 31, 1989. The review indicates the existence of dumping margins for the three firms during the period. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 6, 1990.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Steve Alley, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-4103 or (202) 377-1766, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 23, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 13491) an antidumping duty order on certain fresh cut flowers from Mexico. On April 5, 1990, the Department published in the **Federal Register** (55 FR 12696) the final results of the administrative review of the antidumping duty order on certain fresh cut flowers from Mexico covering the period November 3, 1986, through March 31, 1988.

On April 28, 1989, three producers/exporters, Tzitzic Tareta, Florex, and Visaflor, and the petitioner, the Floral Trade Council, requested in accordance with § 353.22(a) of the Commerce Regulations (1989) that we conduct this administrative review. We published a notice of initiation on May 24, 1989 (54 FR 22465). The Department is now conducting the administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act"). This review covers three producers/exporters of certain fresh cut flowers, Tzitzic Tareta, Florex and Visaflor, and the period April 1, 1988, through March 31, 1989.

On July 6, 1989, Visaflor, asserting that it had no entries of the subject merchandise during the period of review, requested that it be excluded from this administrative review. Consequently, it did not respond to the Department's questionnaire. See the "Preliminary Results of the Review" section of this notice. Responses to the Department's questionnaire were received from Tzitzic Tareta and Florex on July 14, 1989. Deficiency letters were sent to both companies on September 5, 1989. Deficiency responses were received from both companies on September 21, 1989. Additional deficiency letters were sent to both companies on September 25, 1990. A deficiency response was received from Tzitzic Tareta on October 10, 1990. Florex did not respond to this deficiency letter. Sales below cost investigations were initiated on December 5, 1989, with respect to Tzitzic Tareta and Florex, and the responses to the cost of production section of the Department's questionnaire (section D) were received on January 26, 1990. Deficiency responses were received on March 26, 1990.

As evidenced by the Department's need to request numerous clarifications regarding respondents' submissions, the responses were found to be deficient and ambiguous in many regards. Although deficiency responses were submitted, as noted below, we were compelled to use best information available in many instances where information remained incomplete or unclear.

Scope of Review

Certain fresh cut flowers are defined as standard carnations, standard chrysanthemums, and pompom chrysanthemums. During the period of review, such merchandise was classifiable under the Tariff Schedules of the United States Annotated (TSUSA) items 192.2130 (standard carnations), 192.2120 (standard chrysanthemums), and 192.2110 (pompom chrysanthemums). After January 1, 1989, the subject merchandise was also classifiable under Harmonized Tariff Schedule (HTS) numbers 0603.10.7010 (pompom chrysanthemums), 0603.10.7020 (standard chrysanthemums), and 0603.10.7030 (standard carnations). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Fair Value Comparisons

To determine whether sales of certain fresh cut flowers from Mexico to the United States were made at less than fair value, we compared the United States price to the foreign market value, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

As in the original fair value investigation and in the first administrative review, all United States prices were weight-averaged on a monthly basis in order to account for the perishability of the product.

Tzitzic Tareta

We based United States price on exporter's sales price (ESP) for all of Tzitzic Tareta's sales, in accordance with section 772(c) of the Act, because these sales were made to unrelated purchasers after the date of importation into the United States. These ESP transactions include Tzitzic Tareta's U.S. sales made through an unrelated consignee which were incorrectly reported as purchase price sales.

We calculated ESP for Tzitzic Tareta's consignment sales based on packed, f.o.b. Houston airport prices through an unrelated consignee in the United States. We made deductions from these prices for foreign inland freight, U.S. and foreign brokerage and handling charges, air freight, and U.S. duty.

We calculated ESP for Tzitzic Tareta's sales through its related U.S. subsidiary based on packed, f.o.b. Mexico City airport, packed, f.o.b. Houston airport, packed, f.o.b. subsidiary offices, and packed, f.o.b. customer's offices, prices. We made deductions from these prices for foreign inland freight, U.S. and Mexican brokerage and handling charges, air freight charges, U.S. duty, and U.S. inland freight. As best information available, we assumed that U.S. inland freight charges for those sales with terms "packed, f.o.b. subsidiary offices" and "packed, f.o.b. customer's offices" are included in the indirect selling expenses reported by Tzitzic Tareta for its related subsidiary. We reclassified these freight expenses as movement charges and allocated them over all stems sold f.o.b. subsidiary and f.o.b. customer. In some cases Tzitzic Tareta reported terms of sale as f.o.b. Houston Airport, f.o.b. subsidiary's offices or f.o.b. customers, offices, but did not report the corresponding air freight, U.S. duty, and U.S. brokerage and handling charges. In those cases where Tzitzic Tareta reported no air freight, U.S. duty, or U.S. brokerage and handling, the Department applied, as best information available, the weighted-average of these charges reported for all other U.S. transactions having similar terms of sale. In accordance with § 353.41(e) of the Department's regulations, we made further deductions to ESP for credit expenses and commissions.

For those sales through Tzitzic Tareta's related subsidiary, a deduction was made for those indirect selling expenses incurred on U.S. sales both by the related subsidiary in the United States and those incurred by Tzitzic Tareta in Mexico. Given that Tzitzic Tareta did not report indirect selling expenses incurred in Mexico for U.S. sales, we estimated those expenses using the selling expenses contained in Tzitzic Tareta's Section D response, less commissions. For those sales made through an unrelated consignee, we deducted only those indirect selling expenses associated with Tzitzic Tareta in Mexico.

Florex

We based United States price on both purchase price and ESP because sales were made to unrelated purchasers both before and subsequent to importation. Those sales made subsequent to importation were made through unrelated consignees in the United States. These sales were incorrectly reported as purchase price sales.

When sales were made to unrelated purchasers prior to importation, we calculated purchase price for Florex based on f.o.b. Mexico City airport

prices. We made deductions for foreign inland freight. It appears that Florex uses its own transportation to ship the merchandise from its offices in Puebla, Mexico, to the Mexico City airport, and that these expenses are included in the Mexican freight expenses reported in section D. As best information available, we totalled all home market freight costs reported in the "Sales in the Home Market or to Third Countries" section of the Department's questionnaire (section B) and deducted that amount from the total freight reported in section D. We assumed that the balance accounts for foreign inland freight from Puebla to the Mexico City airport. We then allocated this amount over total bunches sold to the United States.

Where sales were made subsequent to importation, we calculated ESP based on delivered prices. We made deductions for discounts, foreign inland freight, other freight charges, and U.S. duty. As best information available, we are assuming that the other freight charges reported by Florex include air freight, brokerage and handling charges, and U.S. inland freight charges. We calculated foreign inland freight using the same methodology discussed above for sales made prior to importation.

Because Florex reported that its terms of sale were f.o.b. consignee's offices, in those cases where Florex reported no freight charges, the Department used as best information available, the weighted-average of freight charges reported for all other consignment sales.

In accordance with § 353.41(e) of the Department's regulations, we made further deductions to ESP for credit expenses and commissions. We also deducted indirect selling expenses incurred by the parent company in Mexico, in accordance with § 353.41(e). Although Florex did not report these indirect selling expenses in its sections B and C (Sales to the United States) responses, it appears from Florex's section D response that Florex did incur such expenses. Therefore, the Department used Florex's section D response to estimate indirect selling expenses.

Foreign Market Value

Foreign market value (FMV) was calculated based on home market prices or constructed value (CV), as appropriate.

Petitioner alleged that home market sales of both Tzitzic Tareta and Florex were made at prices below the cost of production (COP). Based on petitioner's allegation, we gathered and analyzed data on respondents, production costs.

If over 90 percent of a respondent's sales were at prices above the COP, we did not disregard any below-cost sales because we determined that the respondent's below-cost sales were not made in substantial quantities over an extended period of time. If between 10 and 90 percent of a respondent's sales were at prices above the COP, we disregarded only the below cost sales. In such cases, we determined that the respondent's below-cost sales were made in substantial quantities over an extended period of time. If less than 10 percent of a respondent's sales were at prices above the COP, we determined that there were an insufficient number of sales to serve as the basis for determining FMV. Instead, we used constructed value as the basis for determining FMV for these sales.

In all cases except for Tzitzic Tareta's sales of standard carnations, we determined that there were a sufficient number of sales above the COP to permit the continued use of home market sales as the basis for determining FMV. Accordingly, we used constructed value as the basis for determining FMV for Tzitzic Tareta's sales of standard carnations.

Tzitzic Tareta

In order to determine whether home market sales were above the COP, we calculated the COP on the basis of Tzitzic Tareta's cost of materials, labor, fabrication, and general expenses. The COP data submitted by Tzitzic Tareta was relied upon in our analysis, except in the following instances where the costs were not appropriately quantified or valued.

General and administrative expenses, as well as interest expenses reported in section D, were incorrectly valued because they were allocated over total flowers produced rather than total flowers sold. Therefore, we used Tzitzic Tareta's financial statements to value general and administrative expenses as well as interest expenses. However, selling, general and administrative expenses were reported as a single amount on Tzitzic Tareta's financial statements. We were, therefore, unable to use the selling expenses reported by Tzitzic Tareta in its section B response. We therefore used the total GS&A amount reported in Tzitzic Tareta's financial statements for constructed value.

We used the quantity of sales of standard and pompom chrysanthemums as the denominator to compute a cost per unit for chrysanthemums rather than quantity of production as reported by the respondent. In addition, we used the quantity of sales of standard carnations as the denominator to compute a unit cost for carnations rather than quantity of production, as reported by the respondent.

We found that over 90 percent of standard chrysanthemums sold by Tzitzic Tareta in Mexico were sold at prices above the COP. Accordingly, we used all sales as the basis for determining FMV for this category of such-or-similar merchandise. Because we found that less than 90 percent but more than 10 percent of Tzitzic Tareta's sales of pompom chrysanthemums in Mexico were made at prices above the COP, we disregarded the below-cost sales in our analysis and considered only the above-cost sales as the basis for determining FMV.

We calculated FMV for both standard and pompom chrysanthemums based on packed, ex-hacienda prices to unrelated purchasers in Mexico. Because FMV is being compared to ESP, we made deductions for home market credit expenses.

Where monthly weighted-average commissions were paid in both markets, we deducted home market commissions paid to unrelated parties, pursuant to § 353.56(a)(2) of our regulations, and home market indirect selling expenses up to the amount of indirect selling expenses incurred on exporter's sales price sales, in accordance with § 353.56(b)(2) of the Department's regulations. Where monthly weighted-average commissions were paid on sales only in the U.S. market, we deducted home market indirect selling expenses up to the amount of the sum of indirect selling expenses and commissions incurred on ESP sales. Where monthly weighted-average commissions were paid on sales only in Mexico, we deducted the sum of home market commissions paid to unrelated parties and home market indirect selling expenses up to the amount of indirect selling expenses incurred on ESP sales. Where monthly weighted-average commissions were paid in neither market, we deducted the home market selling expenses up to the amount of indirect selling expenses incurred on ESP sales.

Because Tzitzic Tareta reported only indirect selling expenses incurred by its related U.S. subsidiary, the Department used best information available to estimate indirect selling expenses incurred in Mexico. Best information available was based on total selling expenses reported in Tzitzic Tareta's section D response, less commissions.

We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act.

We found that less than 10 percent of Tzitzic Tareta's sales of standard carnations in Mexico were made at prices above the COP. Accordingly, we disregarded all sales as the basis for determining FMV. In accordance with section 773(e) of the Act, we calculated FMV based on constructed value (CV). CV includes cost of materials, fabrication, general expenses, profit, and packing. Actual general expenses were used since these exceeded the statutory minimum requirement of ten percent of the sum of materials and fabrication. The CV data submitted by Tzitzic Tareta was relied on, except in the following instances where costs were not appropriately quantified or valued.

General and administrative expenses, as well as interest expenses reported in section D, were incorrectly valued because they were allocated over total flowers produced rather than total flowers sold. Therefore, we used Tzitzic Tareta's financial statements to value general and administrative expenses as well as interest expenses. However, selling, general and administrative expenses were reported as a single amount on Tzitzic Tareta's financial statements. We were, therefore, unable to use the selling expenses reported by Tzitzic Tareta in its section B response. We therefore used the total GS&A amount reported in Tzitzic Tareta's financial statements for constructed value.

Because profit was not submitted, the statutory minimum of eight percent of the sum of general expenses and cost of materials and fabrication was used.

Packing expenses were reported in both section C and section D of Tzitzic Tareta's response. We used packing expenses as reported in section D for the calculation of CV, as best information available, because these appeared to be more complete than those reported in section C.

We deducted credit expenses from CV in accordance with § 3053.56(a)(2) of the Department's regulations. Where monthly weighted-average commissions were paid on sales in the U.S. market, we deducted home market commissions paid to unrelated parties, pursuant to § 353.56(a)(2) of our regulations, and home market indirect selling expenses up to the amount of the indirect selling expenses incurred on ESP sales, in accordance with § 353.56(b)(2) of the Department's regulations. Where no monthly weighted-average commission was paid on sales in the U.S. market, we deducted the sum of home market commissions and indirect selling expenses up to the amount of the indirect selling expenses incurred on ESP sales.

Because Tzitzic Tareta reported only indirect selling expenses for its related U.S. subsidiary, the Department used best information available to estimate indirect selling expenses incurred in Mexico. Best information available was based on total selling expenses reported in Tzitzic Tareta's section D response, less commissions.

Florex

In order to determine whether home market sales were above the COP, we calculated the COP on the basis of Florex's cost of materials, fabrication, and general expenses. The COP data submitted by Florex was relied on in our analysis, except in the following instances where the costs were not appropriately quantified or valued.

We adjusted the selling, general and administrative expenses to reflect the ratio of such expenses to the cost of sales on the company's income statements. Because Florex's section D response indicated indirect selling expenses not reported in its section B response, we used the selling expenses reported by Florex in its section D response.

We adjusted the interest expense to reflect the ratio of interest expense to the cost of sales on the company's income statements.

We found that over 90 percent of Florex's sales were made at prices above the COP and used all sales as the basis for determining FMV. We calculated foreign market value based on delivered prices to unrelated purchasers. We made deductions for inland freight.

Where U.S. price was based on purchase price, we made circumstance of sale adjustments, where appropriate, for differences in credit expenses. Because Florex did not report a short-term interest rate, home market credit expenses were calculated using the ranged, publicly available short-term Mexican interest rates reported by Tzitzic Tareta, as best information available. We also offset commissions incurred on home market sales with indirect selling expenses incurred on U.S. sales, pursuant to § 353.56 of the Department's regulations.

Although Florex did not report any indirect selling expenses in its sections B or C responses, it appears from Florex's section D response that Florex did incur such expenses. Therefore, using best information available, we estimated indirect selling expenses for Florex based on its section D response.

Where FMV was compared to ESP, we made deductions from the home market price, where appropriate, for credit expenses. Because Florex did not report a short-term interest rate, home market credit expenses were calculated using the ranged, publicly available short-term Mexican interest rates reported by Tzitzic Tareta, as best information available. Pursuant to § 353.56(a)(2) of the Department's regulations, we deducted commissions paid to unrelated parties. We also deducted indirect selling expenses capped by indirect selling expenses incurred on ESP sales, in accordance with § 353.56(b)(2) of the Department's regulations. These expenses were calculated as described above for purchase price sales.

Florex reported no packing expenses in its sections B and C responses. However, Florex did report total packing materials expenses in its section D response. As best information available, we are assuming that the packing expenses reported by Florex in section D are associated solely with sales to the United States. Therefore, we are adding U.S. packing expenses to FMV in accordance with section 773(a)(1)(B) of the Act.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist for the period April 1, 1988, through March 31, 1989:

Manufacturer/exporter	Margin (percent)
Tzitzic Tareta	46.31
Florex	38.00
Visaflor	29.40

Visaflor certified that it did not export any of the subject merchandise under review to the U.S. during the period of investigation, and requested that it be excluded from this review. However, the Department received notification from U.S. Customs Service field offices in Miami, Florida, and Dallas, Texas that subject merchandise produced by Visaflor may, in fact, have been entered during the period from May through July of 1988. Visaflor maintains that these entries consisted of flowers grown by other companies that were merely consolidated on a Visaflor invoice to share transportation expenses. Although Visaflor submitted actual invoices associated with these entries, it remains unclear whether entries of Visaflor's flowers were made during the period of review. Because Visaflor has so far attempted to cooperate with the Department, we are assigning to

Visaflor, as best information available, the margin calculated for it in the original less than fair value investigation rather than the highest margin calculated for any responding firm in this review. If further evidence substantiating Visaflor's claim is submitted in a timely manner, the Department will reconsider this issue in the final results of this administrative review.

The Department will issue appraisement instructions concerning Tzitzic Tareta, Florex, and Visaflor directly to the Customs Service upon completion of this administrative review.

Furthermore, the following deposit requirements will be effective upon publication of our final results of this administrative review for all shipments of the subject merchandise from Mexico entered, or withdrawn from warehouse, for consumption on or after that publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for any shipments of this merchandise manufactured or exported by the remaining known manufacturers/exporters not covered in this review will continue to be at the rate published in the final determination of sales at less than fair value or the final results of the first administrative review for these firms; (2) the cash deposit rate for Tzitzic Tareta, Florex and Visaflor will be that established in the final results of this administrative review; and (3) the cash deposit rate for any future entries of this merchandise from a new producer and/or exporter, not covered in this administrative review, the original investigation, or the last administrative review, whose first shipments occurred after March 31, 1989, and who is unrelated to a reviewed firm or any firm that was subject to the original investigation will be the same as the rate established for Tzitzic Tareta. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Public Comment

In accordance with § 353.38 of the Department's regulations, case briefs or any other written comments must be submitted in at least ten copies to the Assistant Secretary for Import Administration no later than 30 days after the publication of this determination, and rebuttal briefs no later than 37 days after publication of this determination. In accordance with § 353.38(b) of the Department's regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Such hearing will be held 44 days after the publication of this determination at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Interested parties who wish to participate in the hearing must submit a written request to the Assistant Secretary for Import Administration, room B-099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In accordance with § 353.38(b) of the Department's regulations, an interested party may make an affirmative oral presentation only on arguments included in its briefs.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22(c)(5) of the Department's regulations.

Dated: October 30, 1990.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-26186 Filed 11-5-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-403-801, C-403-802]

Correction of Date for Postponement of Final Antidumping Duty and Final Countervailing Duty Determinations; Fresh and Chilled Atlantic Salmon from Norway

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public of the correct date for the final determinations in the antidumping duty and countervailing duty investigations of fresh and chilled Atlantic salmon from Norway. The correct date for these final determinations is February 15, 1991.

EFFECTIVE DATE: November 6, 1990.

FOR FURTHER INFORMATION CONTACT: Louis Apple, (202) 377-1769, Office of Antidumping Investigations, or Rick Herring (202) 377-3530, Office of Countervailing Duty Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On October 26, 1990, we published a notice in the **Federal Register** (55 FR 43154) announcing the date of the final determinations of these countervailing duty and antidumping duty investigations. That notice made mistaken references to these final determinations being postponed until not later than February 8, 1991. The Department had postponed the final determinations until not later than February 15, 1991.

The other dates referred to in the October 26, 1990, notice are correct. The case briefs in the antidumping duty investigation are due on January 14 and rebuttal briefs are due on January 22, 1991. The hearing will be held on January 23, 1991. The public hearing for the countervailing duty investigation will be held on December 17, 1990, at 10 a.m. at the U.S. Department of Commerce, room 1412, 14th Street and Constitution Avenue NW., Washington DC. Case briefs in the countervailing duty investigation are due on December 10, and rebuttal briefs are due on December 14, 1990.

The U.S. International Trade Commission has been advised of the postponement of these determinations. This notice is published pursuant to sections 705(d) and 735(d) of the Act and 19 CFR 355.20(c)(3) and 353.20(b)(2).

Dated: October 31, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-26243 Filed 11-5-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-533-063]

Preliminary Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that net subsidies are being provided to manufacturers or exporters in India of certain iron-metal castings (castings), as described in the "Scope of the Review" section of this notice. We invite interested parties to comment on these preliminary results. If this review proceeds as expected, we will issue final results on or before January 11, 1991.

EFFECTIVE DATE: November 6, 1990.

FOR FURTHER INFORMATION CONTACT: Michelle L. O'Neill or Margot Paijmans,

Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230 on (202) 377–1673 or (202) 377–1442.

SUPPLEMENTARY INFORMATION:

Preliminary Results

We preliminarily determine that net subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers or exporters in India of certain iron-metal castings. This review covers the period of January 1, 1986 through December 31, 1986 and the following programs:

- International Price Reimbursement Scheme
- Cash Compensatory Support Scheme
- Pre-Shipment Export Loans
- Income Tax Reductions
- Market Development Assistance Grants
- Sales of Import Replenishment Licenses
- Extension of Free Trade Zones
- Preferential Freight Rates
- Import Duty Exemptions Available to 100 Percent Export-Oriented Units
- Post-Shipment Financing

The weighted-average net subsidies are shown in the "Preliminary Results of Administrative Review" section of this notice.

Case History

On October 16, 1980, the Department published its countervailing duty order in its investigation of certain iron-metal castings from India. On December 22, 1986, the Department published the final results of its most recently completed administrative review for the period January 1, 1984 through December 31, 1984 (51 FR 45780). The preliminary results of the administrative review for the period January 1, 1985 through December 31, 1985 were published on April 5, 1990 (55 FR 12702).

Since the notice of initiation for this administrative review (52 FR 441614, November 18, 1987), the following events have occurred. On June 10, 1988, we presented the questionnaire to the Government of India and the manufacturers and exporters of the subject merchandise. On October 4, 1988, we received the government and company responses. On May 23, 1990, we delivered a supplemental/deficiency questionnaire to the Government of India and the manufacturers and exporters of the subject merchandise. We received responses to this supplemental/deficiency questionnaire on August 8, August 24, August 28, September 28, October 2, October 3, and October 22, 1990.

Scope of Review

The imports covered by this review are shipments of Indian manhole covers and frames, clean-out covers and frames, and catch basin grates and frames. These articles are commonly called municipal or public works castings and are used for access or for drainage for public utility, water, and sanitary systems. During the review period, this merchandise was classifiable under "Tariff Schedules of the United States Annotated" item numbers 657.0950 and 657.0990. This merchandise is currently classifiable under "Harmonized Tariff Schedule" (HTS) item numbers 7325.10.0010 and 7325.10.0050. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Analysis of Programs

Based on our analysis of the responses to our questionnaires, we preliminarily find the following:

I. Programs Preliminarily Found to Confer Subsidies

A. International Price Reimbursement Scheme (IPRS)

On February 9, 1981, the Government of India introduced the IPRS for exporters of products with steel inputs. The purpose of the program is to rebate the difference between higher domestic and lower international prices of steel. On September 28, 1983, the Government of India extended the IPRS to include pig iron.

The rebate is funded through collection of a levy on all domestic purchases of steel, pig iron and scrap. The Joint Plant Committee (JPC), a government-directed organization comprised largely of pig iron and steel producers, sets domestic steel and pig iron prices. The JPC also determines the specific levy for each pig iron and steel product based on the anticipated need for these inputs in exported products.

The Engineering Export Promotion Council (EEPC), a non-profit organization funded by the Government of India and private firms, processes the claims for, and disburses, the IPRS rebate. The IPRS rebate is based on the differential between domestic and international prices of pig iron, using a standard pig iron consumption factor of 110 percent, which includes a ten percent allowance for waste. Based on our analysis of questionnaire responses, we preliminarily determine that all castings exporters covered by this review obtained IPRS rebates for pig iron.

We consider a government program that results in the provision of an input to exporters at a price lower than to producers of domestically sold products to confer a subsidy within the meaning of section 771(5)(A) of the Act. We consider the benefit to be the entire IPRS rebate between the domestic and international price of pig iron. Therefore, we preliminarily determine the IPRS program to confer a countervailable export subsidy.

Respondents reported IPRS rebates as received on a shipment-specific basis for exports of the subject merchandise to the United States. Therefore, we allocated the total amount of rebates received by each firm during the period of review over total exports of the subject merchandise to the United States.

Where the information provided by a respondent company was incomplete or insufficient, we relied on best information available in accordance with 776(c) of the Act. For Govind Steel Co. Ltd. (Govind), the response did not state whether IPRS rebates received were for exports of the subject merchandise to the United States. As best information available, we have allocated the total amount of the IPRS rebates received over the firm's exports of subject castings to the United States. For RSI India Pvt. Ltd., we did not receive data regarding IPRS rebates received during 1986 for which claims were made prior to 1986. Therefore, in addition to benefits received in 1986 pursuant to claims filed in 1986, as best information available, we have included IPRS rebates received in 1987 pursuant to claims filed in 1986.

Where responding firms made different presentations of IPRS rebate information, we have used the most recent and/or the most specific data available.

We preliminarily determine the net subsidy from this program to be 21.16 percent *ad valorem* for all manufacturers and exporters in India of certain iron-metal castings except for those firms listed below which have significantly different aggregate benefits. The net subsidy for these firms is the following:

Company	Net ad valorem subsidy (percent)
1. R.B. Agarwalla & Company	16.35
2. Crescent Foundry Co. Pvt. Ltd	14.81
3. Govind Steel Co. Ltd	223.40

Company	Net ad valorem subsidy (percent)
4. Kejriwal Iron & Steel Works	44.42

At verification in the 1985 review, we established that the EEPC stopped accepting any IPRS claims filed on shipments of the subject merchandise exported to the United States after July 1, 1987. Therefore, for purposes of the cash deposit of estimated countervailing duties, we preliminarily determine the benefit from this program to be zero.

B. Cash Compensatory Support (CCS) Program

In 1966, the Government of India established the CCS program as a mechanism by which to rebate indirect taxes on exported merchandise. The rebates are paid as a percentage of the f.o.b. invoice price. In "Certain Iron-Metal Castings From India; Final Results of Administrative Review of Countervailing Duty Order" (48 FR 56092, December 19, 1983), we found that the Government of India satisfactorily demonstrated the requisite linkage between the indirect tax incidence on the subject merchandise and the CCS rebate. We have no information indicating any change in this requisite linkage.

The Government of India rebates various indirect taxes upon export through the CCS program. However, the Department allows an adjustment for a rebate only when the following criteria are met: (1) The indirect taxes are borne by inputs that are physically incorporated into the exported product; and (2) the indirect taxes are assessed only at the final stage of production. If a rebate exceeds the total amount of allowable indirect taxes as defined above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy that provides a countervailable benefit.

We consider pig iron, scrap iron, paint and packing materials to be raw material inputs that are physically incorporated into the subject merchandise. The allowable indirect taxes on these materials include Central and West Bengal sales taxes, octroi tax, central excise tax, turnover tax, and stamp duties for bills of lading, letters of credit, receipts and drafts.

To determine the average taxes incurred on the subject merchandise, we calculated taxes incurred on a company-specific basis for each input mentioned above. Where companies reported volume and value of opening and closing inventories and purchases of pig iron during the review period, we calculated an average price per metric ton and then calculated the tax incidence on these inputs. For those companies that did not report specific taxes incurred, the average price per metric ton for pig iron and scrap was increased by ten percent to allow for wastage. We divided total taxes incurred by the value of one metric ton of the subject merchandise to arrive at the total tax incidence, expressed as a percentage. We then compared this tax incidence percentage to the CCS rebate, including the excise tax drawback.

Where the information provided by a respondent company was incomplete or insufficient, we applied best information available in accordance with 776(c) of the Act. One company, Super Castings (India), provided only the value, but not the volume, of opening and closing inventories and purchases. Another company, Govind Steel Co. Ltd., provided only the volume, but not the value, of opening and closing inventories and purchases. Therefore, we based the calculation of Super Castings' and Govind's tax incidence on the average domestic price of pig iron reported by the Government of India in its original questionnaire response.

Although its response indicated use of the CCS program, Select Steels Ltd. did not provide any data regarding this program. Therefore, as best information available, we are assigning Select Steels Ltd. the overrebate found in the administrative review for the period, January 1, 1982 to December 31, 1982, the most recent review in which an overrebate was found under this program.

For all companies, except Select Steels Ltd., the average indirect tax incidence on the subject merchandise for the period of review exceeded the five percent CCS payment. Therefore, we preliminarily determine the net subsidy from this program to be 0.44 percent *ad valorem*, which is *de minimis*, for all manufacturers and exporters in India of certain iron-metal castings except for those firms listed below which have significantly different aggregate benefits. The net subsidy for these firms is the following:

Company	Net ad valorem subsidy (percent)
1. R.B. Agarwalla & Company	0.00
2. Crescent Foundry Co. Pvt. Ltd	0.00
3. Govind Steel Co. Ltd	0.00
4. Kejriwal Iron & Steel Works	0.00

C. Pre-Shipment Export Loans

The Reserve Bank of India, through commercial banks, provides pre-shipment or "packing" credits to exporters. With these pre-shipment loans, exporters may purchase raw materials and packing materials based on presentation of a confirmed order or letter of credit. In general, the pre-shipment loans are granted for a period of 90 to 180 days, with penalty charges for late interest payments. During the review period, the interest rate under this program was 12 percent per annum for the period of January through July 1986, and 9.5 percent per annum for the period of August through December 1986, for 90-day, 135-day, and up to 180-day loans. Because only exporters are eligible for these pre-shipment loans, we determine that they are countervailable to the extent that they are provided at preferential rates.

We did not receive information regarding the comparable commercial interest rate during the review period as requested in the original and supplemental questionnaires. In accordance with section 776(c) of the Act, as best information available, we have used the benchmark applied in the 1985 review, 16.50 percent. (See, "Certain Iron-Metal Castings From India: Preliminary Results of Countervailing Duty Administrative Review"55 FR 12702, April 5, 1990.) This was the comparable commercial interest rate during fiscal year 1985–1986 for small-scale industries with loans from 200,000 to 2,500,000 rupees, as quoted by the Reserve Bank of India in its bulletin entitled "Report on Trend and Progress of Banking in India" for fiscal year 1985–1986. This was also the short-term interest rate for India listed in the "IMF International Financial Statistics" for 1986. Since all castings manufacturers and exporters subject to this review are characterized as small-scale industries and because no castings firms reported pre-shipment loans exceeding 2,500,000 rupees during the review period, we have used 16.50 percent as our benchmark interest rate. Therefore, the interest differential for these loans ranged from 4.5 to 7.0 percent.

To calculate the benefit on loans for which interest was paid during 1986, we followed the short-term loan methodology which has been applied consistently in our past determinations and is described in more detail in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty

Order" (49 FR 18006, April 26, 1984); see also, Alhambra Foundry v. United States, 626 F. Supp. 402 (CIT, 1985).

Accordingly, we compared the amount of interest actually paid during the review period to the amount that would have been paid at the benchmark rate. Depending on the manner in which respondent companies reported these loans, we allocated the benefit to either total exports or total exports of the subject merchandise to the United States.

We preliminarily determine the net subsidy from this program to be 1.18 percent for all manufacturers and exporters in India of certain iron-metal castings except for those firms listed below which have significantly different aggregate benefits. The net subsidy for these firms is the following:

Company	Net ad valorem subsidy (percent)
1. R. B. Agarwalla & Company	0.59
2. Crescent Foundry Co. Pvt. Ltd	0.00
3. Govind Steel Co. Ltd.	2.93
4. Kejriwal Iron & Steel Works	0.19

D. Income Tax Reductions

Under section 80HHC of the Finance Act of 1983, the Government of India allows exporters to deduct one percent of taxes paid on export sales and five percent of taxes paid on the incremental increase of export sales over the previous fiscal year during assessment years 1983–84, 1984–85 and 1985–86. However, section 80VVA of the Finance Act of 1983 limits the tax deduction to 70 percent of net income. Because the tax deduction allowable under section 80HHC is contingent upon export performance and available only to exporters, we preliminarily determine that it is countervailable.

To calculate the benefit, we multiplied the income tax deductions each company claimed by the corporate income tax rate and divided the result by its total exports. For those companies that did not provide their tax rate, we used the corporate tax rate reported by the Government of India. One company's allowable deductions exceeded 70 percent of net income. However, the Government of India, pursuant to section 80VVA of the Finance Act, allows only those deductions up to 70 percent of net income. Therefore, for this company, we calculated the benefit to be 70 percent of the total deduction taken under section 80HHC.

We preliminarily determine the net subsidy from this program to be 0.73 percent *ad valorem* for all manufacturers and exporters in India of certain iron-metal castings except for those firms listed below which have significantly different aggregate benefits. The net subsidy for these firms is the following:

Company	Net ad valorem subsidy (percent)
1. R. B. Agarwalla & Company	0.40
2. Crescent Foundry Co. Pvt. Ltd	3.26
3. Govind Steel Co. Ltd.	0.12
4. Kejriwal Iron & Steel Works	0.15

E. Market Development Assistance (MDA) Grants

The Federation of Indian Export Organization administers, and the Ministry of Commerce, approves all MDA grants. The purpose of the program is to provide grants-in-aid to approved organizations (i.e., export houses) to promote the development of markets for Indian goods abroad. Such development projects may include market research, export publicity, and participation in trade fairs and exhibitions.

Because these MDA grants are available only to export houses, we preliminarily determine that such grants are countervailable.

Of the 11 known exporters, only Kejriwal Iron and Steel Works received MDA grants related to exports of the subject merchandise to the United States during the review period. Because the grant represented less than 0.5 percent of export sales during the review period, we allocated the value of the grant to the firm's total exports to the United States in 1986. To calculate the benefit, we divided the value of the grant received by the value of Kejriwal's total export sales to the United States in 1986.

We preliminarily determine the net subsidy from this program to be 0.00 percent *ad valorem* for all manufacturers and exporters in India of certain iron-metal castings except for those firms listed below which have significantly different aggregate benefits. The net subsidy for these firms is the following:

Company	Net ad valorem subsidy (percent)
1. R. B. Agarwalla & Company	0.00
2. Crescent Foundry Co. Pvt. Ltd	0.00
3. Govind Steel Co. Ltd.	0.00
4. Kejriwal Iron & Steel Works	0.09

II. Programs Preliminarily Determined to be Not Used

We examined the following programs and preliminarily determine that manufacturers or exporters of certain iron-metal castings did not use the following programs during the review period:

A. Sales of Import Replenishment Licenses
B. Extension of the Free Trade Zones
C. Preferential Freight Rates
D. Import Duty Exemptions Available to 100 Percent Export-Oriented Units
E. Post-Shipment Financing

Preliminary Results of Review

In accordance with section 355.22(d), we preliminarily determine that the following net subsidies exist for the period January 1, 1986 through December 31, 1986:

Manufacturer/exporter	Net ad valorem subsidy (percent)
R. B. Agarwalla and Company	17.34
Crescent Foundry Co. Pvt. Ltd.	18.07
Govind Steel Co. Ltd.	226.45
Kejriwal Iron and Steel Works	44.85
All Other Manufacturers or Exporters	23.51

Upon completion of this administrative review, the Department will issue appraisement instructions to the U.S. Customs Service. The Department also intends to instruct the U.S Customs Service to collect the following cash deposit of estimated countervailing duties of the f.o.b. invoice price on shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review:

Manufacturer/exporter	Net ad valorem subsidy (percent)
Carnation Enterprise Pvt. Ltd.	0.00
Kejriwal Iron and Steel Works	0.00
All Other Manufacturers or Exporters	2.33

Public Comment

In accordance with 19 CFR 355.38 of the Commerce Department's regulations, we will hold a public hearing, if

requested, on December 12, 1990, at 2:00 p.m. in room 3708, to afford interested parties the opportunity to comment on this preliminary determination. Interested parties who wish to request or to participate in the hearing must submit a request within ten days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B–099, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, ten copies of the business proprietary version and five copies of the nonproprietary version of case briefs must be submitted to the Assistant Secretary no later than November 26, 1990. Ten copies of the business proprietary version and five copies of the nonproprietary version of rebuttal briefs must be submitted to the Assistant Secretary no later than December 5, 1990. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal brief. If no hearing is requested, interested parties still may comment on these preliminary results in the form of case and rebuttal briefs. Written argument should be submitted in accordance with § 355.38 of the Commerce Department's regulations and will be considered if received within the time limits specified in this notice.

This administrative review and notice are published in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: October 31, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–26184 Filed 11–5–90; 8:45 am]

BILLING CODE 3510–DS–M

INTERNATIONAL TRADE ADMINISTRATION

[C–508–601]

Oil Country Tubular Goods From Israel; Final Results Of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On June 13, 1989, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on oil country tubular goods from Israel. We have now completed that review and determine the net subsidy to be 4.30 percent ad valorem for the period June 11, 1986 through December 31, 1986 and 4.30 percent ad valorem for the period January 1, 1987 through December 31, 1987.

EFFECTIVE DATE: November 6, 1990.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On June 13, 1989, the Department of Commerce (the Department) published in the **Federal Register** (54 FR 25145) the preliminary results of its administrative review of the countervailing duty order on oil country tubular goods from Israel (52 FR 6999; March 6, 1987). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of Review

Imports covered by the review are shipments of Israeli oil country tubular goods (OCTG), in both finished and unfinished condition. OCTG consists of hollow steel products of circular cross-section intended for use in drilling for oil or gas. These products include oil well casing and tubing, of carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or non-API (such as proprietary) specifications. During the review period such merchandise was classifiable under the following "Tariff Schedules of the United States Annotated" (TSUSA) item numbers:

610.3216	610.3925	610.4955
610.3219	610.4025	6104956
610.3233	610.4035	610.4957
610.3234	610.4210	610.4966
610.3242	610.4220	610.4967
610.3243	610.4225	610.4968
610.3249	610.4230	610.4969
610.3252	610.4235	610.4970
610.3254	610.4240	610.5221
610.3256	610.4310	610.5222
610.3258	610.4320	610.5234
610.3262	610.4325	610.5240
610.3264	610.4335	610.5242
610.3721	610.4942	610.5243
610.3722	610.4944	610.5244
610.3751	610.4954	

This merchandise is currently classifiable under the following "Harmonized Tariff Schedule" (HTS) item numbers:

7304.20.10.00	7305.20.60.00
7304.20.20.00	7305.20.80.00
7304.20.30.00	7306.20.10.30
7304.20.40.00	7306.20.10.90
7304.20.50.10	7306.20.20.00
7304.20.50.50	7306.20.30.00
7304.20.60.10	7306.20.40.10
7304.20.60.50	7306.20.60.10
7305.20.20.00	7306.20.80.10
7305.20.40.00	7306.20.80.50

The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period June 11, 1986 through December 31, 1987 and eighteen programs:

(1) Investment Grants under the Encouragement of Capital Investment Law (ECIL)
(2) Insurance from Israel Foreign Trade Risk Insurance Corporation (IFTRIC)
(3) Long-term Industrial Development Loans
(4) Bank of Israel Export Loans
(5) Export Production Fund (EPF)
(6) Export Shipment Fund (ESF)
(7) Import-for-Export Fund (IEF)
(8) Dividends and Interest Tax Benefits Under Section 46 of the ECIL
(9) Drawback Grants
(10) ECIL Interest Subsidy Payments
(11) ECIL Loans
(12) ECIL Preferential Accelerated Depreciation
(13) Encouragement of Industrial Research and Development Law
(14) Equity Maintenance Allowance
(15) Labor Training Grants
(16) Special Export Financing
(17) Reduced Corporate and Income Tax Rates Under Section 47 of the ECIL
(18) Tax Deductible Inventory Adjustment

The only known exporter of OCTG to the United States during the period of review was Middle East Tube Co. (METCO).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from Lone Star Technologies, Inc., and CF&I Steel Corporation, petitioners, and from METCO.

Comment 1: Petitioners contend that the Department's method of calculating the benefit from the Exchange Rate Risk Insurance Scheme (EIS) operated by the Israel Foreign Trade Risk Insurance Corporation (IFTRIC) is erroneous. Petitioners claim that item (j) of the Illustrative List of Exports Subsidies, annexed to the "Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and

Trade" (the Subsidies Code), not only gives guidance for identifying a subsidy but describes the most accurate measurement of the subsidy; item (j) requires the Department to compare the prices charged for the good or service in question to a benchmark price. Specifically, the benefit should be the difference between the premiums paid by the recipient and the premiums that the recipient would have paid if total premiums collected equaled the program's operating costs and losses. Since the provision of insurance by a government is no different from the provision of any other service, the Department should calculate the benefit from EIS according to the methodology prescribed under § 355.44(f)(2) of "Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments" (54 FR 23366; May 31, 1989). Petitioner further contends that under this section, which requires the Department to consider alternative benchmarks, the most appropriate benchmark is the government's cost of providing this service. This benchmark is appropriate for export insurance programs when their premiums are below the cost of providing the insurance coverage.

The respondent, on the other hand, argues that the Department was correct in using the methodology prescribed under 355.44(d) of the proposed rulemaking, which explicitly sets forth the methodology for measuring the benefit from an export insurance program like EIS. Furthermore, the methodology not only is consistent with the Department's current practice but also measures the precise benefit received by the firm. Respondent further contends that the methodology set forth under 355.44(f) of the proposed rulemaking applies only to domestic programs and points out that, although the cost approach advocated by the petitioner in this instance has been proposed by the Department under § 355.44(f)(2) as one means of measuring preferentiality under domestic programs, it is to be used only if better methods are unavailable. Because the benefit can be directly measured, the Department should not use such a surrogate method.

Department's Position: The Department considers the benefits from a subsidy program to be the benefit to the recipient. Based on this standard, which is consistent with past practice in calculating the benefit from the EIS, the Department measures the actual benefit to a company by looking at the difference between what the company paid into the program and what it received in return. See, "Final Affirmative Countervailing Duty Determination; Industrial Phosphoric Acid from Israel" (52 FR 25447; July 7, 1987); "Final Affirmative Countervailing Duty Determination; Certain Fresh Cut Flowers from Israel" (52 FR 3317; February 3, 1987); and "Fresh Cut Roses From Israel; Preliminary Results of Countervailing Duty Administrative Review" (54 FR 10395; March 13, 1989). With our methodology, we can precisely measure the benefit on exports of the subject merchandise to the United States as a result of the respondent's participation in this program. This methodology has also been incorporated in § 355.44(d) of the proposed rulemaking, which explicitly sets forth our standard for determining whether a government export insurance program provides a countervailable benefit.

Comment 2: Petitioners disagree with the Department's reliance on "Final Affirmative Countervailing Duty Determination; Industrial Phosphoric Acid from Israel" (52 FR 24447; July 7, 1987) in determining that short-term financing from the Export Production Fund, Export Shipment Fund and the Import-for-Export Fund was not countervailable. In that determination, the Department found that Israel's foreign currency export loans were not provided at preferential rates after July 1, 1985. Petitioner claims that the Department should have determined whether METCO continued to have access to short-term foreign currency financing from foreign sources and whether financing received was at preferential rates during the period of review. To the extent that METCO paid a premium on non-subsidized loans, the appropriate benchmark should reflect the same premium. If METCO had no unsubsidized short-term loans during the period of review, the benchmark should then reflect lending to firms in the same risk category.

The respondent, on the other hand, states that the Department had already found that Bank of Israel export loans made under the same programs as those under review were not countervailable. Therefore, the burden is on the petitioners to present new evidence establishing that these programs had changed and the prior determinations were no longer applicable. In the absence of such evidence or new allegations, the Department correctly relied on earlier cases to find these programs not to be countervailable. Furthermore, the respondent states that the use of a company-specific benchmark for short-term loans is contrary to the Department's practice of using a national average benchmark to measure the benefit from short-term loans.

Department's Position: Generally, we do not reinvestigate programs previously found not countervailable unless there is evidence of a change in that program or its application. In "Industrial Phosphoric Acid from Israel," we determined that short-term export loans provided by the Bank of Israel under the Export Production Fund, Export Shipment Fund and the Import-for-Export Fund programs were not countervailable after July 1985. Petitioners did not provide any new evidence to indicate that the terms of these programs had changed and that new benefits were provided during the period of review. Because we did not reinvestigate this program, the issue of the appropriate benchmark is moot.

Final Results of Review

After considering the comments received, we determine the net subsidy to be 4.30 percent ad valorem for the period June 11, 1986 through December 31, 1986 and 4.30 percent ad valorem for the period January 1, 1987 through December 31, 1987.

Section 707 of the Tariff Act provides that the difference between the amount of a cash deposit, or the amount of any bond or security, for an estimated countervailing duty and the duty determined under a countervailing duty order shall be disregarded to the extent that the estimated duty is lower than the duty determined under the order, which was published on March 6, 1987. The rate in our preliminary determination (51 FR 21201; June 11, 2986) was 2.12 percent *ad valorem*.

In accordance with section 705(a)(1) of the Tariff Act, the final determination in this case was extended to coincide with the final antidumping determination on the same products from Israel. Because, pursuant to Article 5.3 of the Subsidies Code, we cannot require suspension of liquidation for more than 120 days without the issuance of a countervailing duty order, we terminated the suspension of liquidation on the subject merchandise entered, or withdrawn from warehouse, for consumption on or after October 9, 1986. We reinstated the suspension of liquidation and required the collection of cash deposits of estimated countervailing duties for the subject merchandise entered, or withdrawn from warehouse, for consumption on or after March 6, 1987, the date of publication of the countervailing duty order.

Therefore, the Department will instruct the Customs Service to assess

countervailing duties of 2.12 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after June 11, 1986 and on or before October 8, 1986. Entries or withdrawals made on or after October 9, 1986 and or before March 5, 1987 are not subject to countervailing duties. Further, the Department will instruct the Customs Service to assess countervailing duties of 4.30 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after March 6, 1987 and exported on or before December 31, 1987.

The Department will also instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 4.30 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement will remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: October 1, 1990.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-26185 Filed 11-5-90; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Limit for Certain Cotton, Wool and Man-Made Fiber Sweaters Assembled in Guam From Imported Parts

October 31, 1990

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit for a new agreement year.

EFFECTIVE DATE: November 1, 1990.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on revenues and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The provision for sweaters assembled in Guam from imported parts and exported from Guam to the United States is being continued for the period November 1, 1990 through October 31, 1991. The limit established for the previous period is being increased to 200,262 dozen.

A certification will continue to be required and will be issued by the authorities in Guam prior to exportation as verification of assembly in Guam. A facsimile of the certification stamp was published in the **Federal Register** on March 4, 1985 (50 FR 8649).

For those sweaters properly certified, no export visa or license will be required from the country of origin of the "merchandise, and imports entered under this procedure will not be charged to limits established for exports from the country of origin. Exports of sweaters in Categories 345, 445, 446, 645 and 646, which are not accompanied by a certification and those in excess 200,262 dozen, will require the appropriate visa or export license from the country of origin and will be subject to any other applicable restriction.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 46103, published on November 1, 1989. Information regarding the 1991 Correlation will be published in the **Federal Register** at a later date.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation Textile Agreements.

Committee For the Implementation of Textile Agreements

October 31, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, DC.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, effective on November 1, 1990, you are directed to permit entry or withdrawal from warehouse for consumption in the United States of 200,262 dozen cotton, wool and man-made fiber textile products in Categories 345, 445, 446, 645 and 646, the product of any foreign country or foreign territory, as determined under CFR 12.130 and which have been certified as assembled in Guam and exported to the United States during the twelve-month period beginning on November 1, 1990 and extending through October 31, 1991. You are directed not to require any otherwise applicable export visa or license and not to charge against any otherwise applicable import restriction sweaters subject to this provision. A certification will be issued by the authorities in Guam prior to exportation as verification of assembly in Guam. A facsimile of the certification stamp has been provided.

Imports of cotton, wool and man-made fiber textile products in Categories 345, 445, 446, 645 and 646 assembled in Guam, but not of Guam origin, which are not accompanied by a certification and those in excess of 200,262 dozen exported during the twelve-month period beginning on November 1, 1990 and extending through October 31, 1991 will require the appropriate visa or export license from the country of origin and will be charged to any applicable quota.

Imports charged to the category limit for the period November 1, 1989 through October 31, 1990 shall be charged against the level of restraint to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-26183 Filed 11-5-90; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices, Advisory Committee Meeting

SUMMARY: Working Group C (mainly Opto Electronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday and Wednesday, 11 & 12 December 1990.

ADDRESSES: The meeting will be held at the Naval Ocean Systems Center, Bldg. 111, room 266, San Diego, CA 92152.

FOR FURTHER INFORMATION CONTACT: Gerald Weiss, AGED Secretariat, 2011

Crystal Drive, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This opt-electronic device area includes such programs as imaging device, infrared detectors and lasers. The review will include details of classified defense programs thorughout.

In accordance with section 10(d) of Public Law No. 92–463, as amended, (5 U.S.C. app. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

Dated: November 1, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–26218 Filed 11–5–90; 8:45 am]

BILLING CODE 3810–01–M

DOD Advisory Group on Electron Devices, Advisory Committee Meeting

SUMMARY: Working Group A (mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Thursday, 6 December 1990.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, suite 307, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Becky F. Terry, AGED Secretariat, 2011 Crystal Drive, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law No. 92–463, as amended, (5 U.S.C. app. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1982), and that accordingly, this meeting will be closed to the public.

Dated: November 1, 1990.

L.M. Bynum

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–26219 Filed 11–5–90; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Active Duty Service Determinations for Civilian or Contractual Groups

Under the provisions of section 401, Public Law 95–202 and DOD Directive 1000.20, "Active Duty Service Determinations for Civilian or Contractual Groups," the Secretary of the Air Force, acting in accordance with authority delegated to him by the Secretary of Defense, determined on October 5, 1990, that the service of the group known as "U.S. Civilian Employees of American Airlines Who Served Overseas as a Result of American Airlines' Contract with the Air Transport Command During the Period December 14, 1941 through August 14, 1945," shall be considered "active duty" for the purposes of all laws administered by the Department of Veterans Affairs (VA).

To be eligible for VA benefits, each member of the group must establish they:

1. Were employed by American Airlines as flight crew personnel (pilot, copilot, navigator, flight engineer, radio operator) or
2. Were employed by American Airlines as aviation ground support personnel (aircraft mechanic, station manager, dispatcher) and
3. Served outside the continental United States in direct support of Air Transport Command-directed flight operations during the period December 14, 1941 through August 14, 1945

Qualifying periods of time are computed from the date of departure from the continental United States to the date of return to the continental United States.

Application Procedures

Before an individual can receive any VA benefits, the person must first apply for an Armed Forces Discharge Certificate by filling out a DD Form 2168 and sending it to the following address:

(Note: Do *not* use the Air Force address on the DD Form 2168): HQ AFMPC/DPMARS2, Randolph AFB, TX 78150–6001, *Attn:* TSgt Williamson.

Important: Applicants must attach supporting documents to their DD Form 2168 application. Considered of primary importance will be employment records from American Airlines headquarters. To request any existing records, write to: Mr. John P. Champlin, Manager, Employee Information Center Administration, American Airlines, Inc., 4135 S. 100th East Avenue, Mail Drop K27, Tulsa, OK 74146.

Other supporting documentation might include copies of passports with appropriate entries, flight log books, Army Air Force Identification Forms 133, any personal employment records such as commendations regarding ATC performance, employee expense reports of charges to USAAF contracts, medical certifications prior to departure from US, USAAF passes to leave the limits of an oversea base, military orders, miscellaneous USAAF papers, etc.

DD Forms 2168 are available from VA offices or from the U.S. Air Force offices in this notice.

For further information contact Lt. Col. Larry Harris at the Secretary of the Air Force Personnel Council (AFPC), Washington DC 20330–1000, telephone (703) 692–4747.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90–26138 Filed 11–5–90; 8:45 am]

BILLING CODE 3910–01–M

Active Duty Service Determinations for Civilian or Contractual Groups

Under the provisions of section 401, Pub. L. 95–202 and DOD Directive 1000.20, "Active Duty Service Determinations for Civilian or Contractual Groups," the Secretary of the Air Force, acting in accordance with authority delegated to him by the Secretary of Defense, determined on October 10, 1990, that the service of the group known as "U.S. Civilian Employees of the Philippine Air Depot Who Served During the Period December 8, 1941 to February 23, 1945,"

should not be considered "active duty" for the purposes all laws administered by the Department of Veterans Affairs.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-26139 Filed 11-5-90; 8:45 am]

BILLING CODE 3910-01-M

Active Duty Service Determinations for Civilian or Contractual Groups

Under the provisions of section 401, Public Law 95-202 and DOD Directive 1000.20, "Active Duty Service Determinations for Civilian or Contractual Groups," the Secretary of the Air Force, acting in accordance with authority delegated to him by the Secretary of Defense, determined on August 30, 1990, that the service of:

U.S. Civilians of the American Field Service (AFS) Who Served Overseas Operationally in World War I During the Period August 31, 1917 to January 1, 1918

and

U.S. Civilians of the American Field Service (AFS) Who Served Overseas Under U.S. Armies and U.S. Army Groups in World War II during the period December 7, 1941 through May 8, 1945

shall be considered "active duty" for the purposes all laws administered by the Department of Veterans Affairs (VA).

To be eligible for VA benefits, each member of the group must meet the following eligibility criteria:

World War I

1. Served as a U.S. citizen in an AFS unit overseas as evidenced by a formal, signed enlistment paper or roster enrollment; and

2. Served honorably during the period August 31, 1917 to January 1, 1918. AFS personnel who failed to complete their enlistments honorably were dropped from published rosters of the AFS. Persons who are not on these rosters are therefore deemed to have not served honorably unless they offer conclusive evidence that such an omission was erroneous.

World War II

1. Served as a U.S. citizen in an AFS unit overseas as evidenced by a formal, signed enlistment paper or roster enrollment; and

2. Served honorably under any of the following U.S. Army organizations during the period described for each:

5th U.S. Army, January 5, 1943 to December 16, 1944
15th Army Group, December 16, 1944 through V-E Day, May 8, 1945
7th U.S. Army, July 10, 1943 to August 1, 1944
6th Army Group, August 1, 1944 through V-E Day, May 8, 1945
12th Army Group, July 14, 1944 through V-E Day, May 8, 1945
1st U.S. Army, October 20, 1943 through V-E Day, May 8, 1945

As in the case of WW I AFS personnel, WW II AFS personnel who failed to complete their enlistments honorably were dropped from published rosters of the AFS. Persons who are not on these rosters are therefore deemed to have not served honorably unless they offer conclusive evidence that such an omission was erroneous.

Application Procedures

All known members of both groups will be contacted imminently by the American Field Service Archives with instructions for obtaining a certified description of their AFS service and a DD Form 2168 on which to apply to the U.S. Army for discharge documents. Anyone who believes they are a member of either of these two groups, and who has not been contacted in writing by November 30, 1990, should obtain a DD Form 2168 from and VA office and mail the completed form to the U.S. Army at the following address: Commander, U.S. Army Reserve Personnel Center, Attention: DARP-PAS-EN, 9700 Page Boulevard, St. Louis, MO 63132-5200.

Note: Those individuals not contacted by AFS Archives should include as much supporting documentation as possible when making application.)

For further information contact Lt. Col. Larry Harris at the Secretary of the Air Force Personnel Council (AFPC), Washington, DC 20330-1000, telephone (703) 692-4747.

Patsy J. Conner,

Air Force Federal Register, Liaison Officer.

[FR Doc. 90-26140 Filed 11-5-90; 8:45 am]

BILLING CODE 3910-01-M

Acceptance of Group Application Under

In the matter of "Honorably Discharged Members of the American Volunteer Group (Flying Tigers) Who Served During the Period December 7, 1941 to July 4, 1942."

Under the provisions of section 401, Public Law 95-202 and DOD Directive 1000.20, the Department of Defense Civilian/Military Service Review Board has accepted an application on behalf of the group known as: "Honorably Discharged Members of the American Volunteer Group (Flying Tigers) Who Served During the Period December 7, 1941 to July 4, 1942." Persons with information or documentation pertinent to the determination of whether the service of this group is to be considered equivalent to active military service to the Armed Forces of the United States are encouraged to submit such information or documentation within 60 days to the DOD Civilian/Military Service Review Board, Secretary of the Air Force (AFPC), Washington, DC 20330-1000. Copies of documents or other materials submitted cannot be returned. For further information, contact LtCol Harris, (202) 692-4747.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-26188 Filed 11-5-90; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army, DOD.

Privacy Act of 1974; New Record System

AGENCY: Department of the Army, DOD.

ACTION: Addition of a record system.

SUMMARY: The Department of the Army proposes to add one record system to its inventory of record systems subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a). The system notice for the new system is set forth below.

DATES: The action will be effective December 6, 1990, unless comments are received which would result in contrary determinations.

ADDRESSES: Send comments to Mrs. Alma A. Lopez, HQ, U.S. Army Information Systems Command, ATTN: ASOP-MP, Fort Huachuca, AZ 85613-5000.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 522a), have been published in the Federal Register as follows:

50 FR 22090, May 29, 1985 (DoD Compilation, changes follow)
51 FR 23576, Jun. 30, 1986
51 FR 30900, Aug. 29, 1986
51 FR 40479, Nov. 7, 1986
51 FR 44361, Dec. 9, 1986
52 FR 11847, Apr. 13, 1987
52 FR 18798, May 19, 1987
52 FR 25905, Jul. 9, 1987
52 FR 32329, Aug. 27, 1987
52 FR 43932, Nov. 17, 1987
53 FR 12971, Apr. 20, 1988
53 FR 16575, May 10, 1988
53 FR 21509, Jun. 8, 1988
53 FR 28247, Jul. 27, 1988
53 FR 28249, Jul. 27, 1988
53 FR 28430, Jul. 28, 1988
53 FR 34576, Sep. 7, 1988
53 FR 49586, Dec. 8, 1988
53 FR 51580, Dec. 22, 1988
54 FR 10034, Mar. 9, 1989
54 FR 11790, Mar. 22, 1989
54 FR 14835, Apr. 13, 1989
54 FR 45779, Oct. 31, 1989

54 FR 46965, Nov. 8, 1989
54 FR 50268, Dec. 5, 1989
55 FR 13935, Apr. 13, 1990
55 FR 21897, May 30, 1990 (Army Address Directory)

The new and altered record system reports, as required by the Privacy Act of 1974, as amended, 5 U.S.C. 522a(r) was submitted on October 29, 1990, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4b of appendix I to OMB Circular No. A–230, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985 (50 FR 52738, December 24, 1985).

Dated: November 1, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0351d-1aTRADOC

SYSTEM NAME:

Automated Instructional Management System (AIMS).

SYSTEM LOCATION:

The systems are located at Headquarters, Training and Doctrine Command (TRADOC); TRADOC Service Schools; and Army Training Centers. Addresses for the above may be obtained from the Commander, U.S. Army Training and Doctrine Command, ATTN: ATOM–T, Fort Monroe, VA 23651–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members of the Army, Navy, Marine Corps, and Air Force, and civilians employed by the U.S. Government, and approved foreign military personnel enrolled in a resident course at a U.S. Army service school.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain personnel, Program of Instruction, scheduling, testing, academic, graduation, recycle, and attrition data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and Executive Order 9397.

PURPOSE(S):

This is the TRADOC standard resident student training management system which automates those processes associated with the scheduling, management, testing, and tracking of resident students. The system is composed of several subsystems which perform functions for personnel, student load management, academic records management, test creation, scoring and grading, student critique, resource scheduling and utilization, electronic mail, and query.

The sole users are the personnel responsible for the administration of personnel enrolled in the resident student training programs at U.S. Army service schools and Army training centers. Course completion data on active Army enlisted personnel is supplied to the Army-American Council on Education Registry Transcript System (AARTS) in magnetic media. Course completion data on active Army officer personnel is supplied to the U.S. Army Research Institute (ARI) in magnetic media. All student transactions are supplied to the Army Training Requirements and Resources System (ATRRS) through a daily electronic interface.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Army's "Blanket Routine Uses" set forth at the beginning of the Army's compilation of record system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes, computer discs, and paper printouts.

RETRIEVABILITY:

Retrieved by Social Security Number and course/class number.

SAFEGUARDS:

Different user identification sign-on codes are assigned each person with authorized access to the database. Each sign-on is authenticated by system software. Identification sign-on codes are changed every six months, additions or deletions occur at any time a new person is assigned or someone leaves. The above meet Army's Information System Security Regulation requirements.

RETENTION AND DISPOSAL:

Machine records are retained during student's active enrollment, after which they are classified as history records, written to magnetic tape, and stored indefinitely for reference. Paper records are destroyed after 40 years as follows: Army elements serviced by a records holding area (RHA) hold records for 2 years in the current files area (CFA), transfer to RHA for 1 year; the RHA retires the records to the National Personnel Records Center (NPRC), St. Louis, MO, for the remaining 37 years. Army elements not serviced by a RHA, hold records for 2 years in CFA, then retire to NPRC for the remaining 38 years.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Training and Doctrine Command, ATTN: ATOM–T, Fort Monroe, VA 23651–5000.

NOTIFICATION PROCEDURES:

Individuals seeking to determine if information about themselves is contained in this records system should address written inquiries to the Commander, U.S. Army Training and Doctrine Command, ATTN: ATOM–T, Fort Monroe, VA 23651–5000.

Individual should provide the full name, Social Security Number, and military status or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Commander, U.S. Army Training and Doctrine Command, ATTN: ATOM–T, Fort Monroe, VA 23651–5000.

Individual should provide the full name, Social Security Number, and military status or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents and appealing initial agency determinations by the individual concerned are published in Department of the Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is received from the individual, DoD staff, Personnel and Training systems, and staff and faculty.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 90–26217 Filed 11–5–90; 8:45 am]
BILLING CODE 3810–01–M

Privacy Act of 1974; Amend a Record System

AGENCY: Department of the Army, DOD.

ACTION: Amendment of a Record System.

SUMMARY: The Department of the Army proposes to amend one record system in its inventory of record systems subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

DATES: This action will be effective on December 6, 1990, unless comments are received which would result in contrary determinations.

ADDRESSES: Send comments to Mrs. Alma A. Lopez, HQ, U.S. Army Information Systems Command, ATTN: ASOP-MP, Fort Huachuca, AZ 85613-5000.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 522a), have been published in the Federal Register as follows:

50 FR 22090, May 29, 1985 (DoD Compilation, changes follow)
51 FR 23576, Jun. 30, 1986
51 FR 30900, Aug. 29, 1986
51 FR 40479, Nov. 7, 1986
51 FR 44361, Dec. 9, 1986
52 FR 11847, Apr. 13, 1987
52 FR 18798, May 19, 1987
52 FR 25905, Jul. 9, 1987
52 FR 32329, Aug. 27, 1987
52 FR 43932, Nov. 17, 1987
53 FR 12971, Apr. 20, 1988
53 FR 16575, May 10, 1988
53 FR 21509, Jun. 8, 1988
53 FR 28247, Jul. 27, 1988
53 FR 28249, Jul. 27, 1988
53 FR 28430, Jul. 28, 1988
53 FR 34576, Sep. 7, 1988
53 FR 49586, Dec. 8, 1988
53 FR 51580, Dec. 22, 1988
54 FR 10034, Mar. 9, 1989
54 FR 11790, Mar. 22, 1989
54 FR 14835, Apr. 13, 1989
54 FR 45779, Oct. 31, 1989
54 FR 46965, Nov. 8, 1989
54 FR 50268, Dec. 5, 1989
55 FR 13935, Apr. 13, 1990
55 FR 21897, May 30, 1990 (Army Address Directory)

The specific changes to the record system being amended are set forth below, followed by the system notice as amended, published in its entirety. The amended notice is not within the purview of subsection (r) of the Privacy Act, as amended (5 U.S.C. 552a), which requires the submission of a new or altered system report.

Dated: November 1, 1990.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0145-1 TRADOC

System name:

Army Reserve Officers Training Corps LEADS Referral Card System (50 FR 22175, May 29, 1985)

Changes:

System name:

Delete entire entry and replace with "Army Reserve Officers' Training Corps Gold QUEST Referral System"

System location:

Delete entire entry and replace with "Primary system exists at MCRB Service Bureau, 11633 Victory Boulevard, North Hollywood, CA 91609. Segments exist at MCRB Service Bureau, 7447 Candlewood Road, Hanover, Maryland, 21076; WATS Telemarketing Center, Omaha, Nebraska; Wunderman Worldwide, 575 Madison Avenue, New York, NY 10022; Headquarters, U.S. Army ROTC Cadet Command, Fort Monroe, VA 23651-5000; Army ROTC Region Headquarters (4); ROTC Cadet Battalions (315) and ROTC Goldminer Teams (18)."

* * * * *

Categories of records in the system:

Delete entire entry and replace with "Records of current and former prospect referrals showing: name, address, telephone number, Social Security Number (optional), sex, citizenship, prior military service, name of high school, high school graduation date, grade point average, SAT/ACT test score, college expected to attend, admissions status to college, academic major, and date of birth."

* * * * *

Purpose(s):

Delete entire entry and replace with "To provide a central database of potential prospects for enrollment in the Senior ROTC program; assist prospects by providing information concerning educational institutions having ROTC programs; scholarship information and applications; information regarding other Army enlistment, Reserve or National Guard Programs; to render recruitment management information reports; to refer qualified prospects, a Professor of Military Science at or nearest to their college of choice."

* * * * *

Retrievability:

Add to the end of the entry "* * * or peculiar identification number assigned by the system.

* * * * *

Retention and disposal:

Change "2 years" to "3 years" in the entry.

* * * * *

Record source categories:

Delete the entire entry and replace with "Source categories for prospects include the Army ROTC toll-free telephone number, magazines, newspapers, poster advertising coupons, mail-back reply cards, letters, walk-ins, referrals from parents, relatives, counselors, teachers, coaches, friends, associates, college registrars, dormitory directors, national testing organizations, honor societies, boys' clubs, boy scout organizations, Future Farmers of America, minority and civil rights organizations, fraternity and church organizations; neighborhood youth centers, YMCA, YWCA, social clubs, athletic clubs, boys state/girls state/scholarship organizations, U.S. Army Recruiting Command, Military Academy Liaison officers, West Point non-select listing, previous employers, trade organizations, military service, and other organizations and commands comprising the Department of Defense."

* * * * *

A0145-1TRADOC

System name:

Army Reserve Officers' Training Corps Gold QUEST Referral System.

System location:

Primary system exists at MCRB Service Bureau, 11633 Victory Boulevard, North Hollywood, California 91609. Segments exist at MCRB Service Bureau, 7447 Candlewood Road, Hanover, Maryland 21076; WATS Telemarketing Center, Omaha, Nebraska; Wunderman Worldwide, 575 Madison Avenue, New York, New York 10022; Headquarters, U.S. Army ROTC Cadet Command, Fort Monroe, VA 23651-5000; Army ROTC Region Headquarters (4); ROTC Cadet Battalions (315) and ROTC Goldminer Teams (18).

Categories of individuals covered by the system:

Potential enrollees in the Senior ROTC program.

Categories of records in the system:

Records of current and former prospect referrals showing: name, address, telephone number, Social Security Number (optional), sex, citizenship, prior military service, name of high school, high school graduation date, grade point average, SAT/ACT test score, college expected to attend, admissions status to college, academic major, and date of birth.

Authority for maintenance of the system:

10 U.S.C., Chapter 103, sections 2101-2111.

Purpose(s):

To provide a central database of potential prospects for enrollment in the Senior ROTC program; assist prospects by providing information concerning

educational institutions having ROTC programs; scholarship information and applications; information regarding other Army enlistment, Reserve or National Guard Programs; to render recruitment management information reports; to refer qualified prospects, a Professor of Military Science at or nearest to their college of choice.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

The Army's "Blanket Routine Uses" set forth at the beginning of the Army's compilation of record system notices apply to this record system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

storage:

Paper records and cards in file cabinets; on magnetic tape, disks, and computer printouts.

Retrievability:

By prospects surname or peculiar identification number assigned by the system.

safeguards:

Records are maintained in secured areas within protected buildings, and accessible by only designated, authorized individuals having official need.

Retention and disposal:

Records are retained for 3 years and then destroyed.

System manager(s) and address:

Commander, Headquarters, U.S. Army Training and Doctrine Command, Fort Monroe, VA 23651–5000.

Notification procedure:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Commander, Headquarters, U.S. Army ROTC Cadet Command, ATTN: Marketing Directorate, Fort Monroe, VA 23651–5000.

Individuals should provide their full name, current address, telephone number and signature.

Record access procedures:

Individuals seeking access to information about themselves contained in this record system should address written inquiries to the Commander, Headquarters, U.S. Army ROTC Cadet Command, ATTN: Marketing Directorate, Fort Monroe, VA 23651–5000.

Contesting record procedures:

The Army's rules for accessing records, contesting contents, and appealing initial determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the Commander, Headquarters, U.S. Army ROTC Cadet Command, ATTN: Marketing Directorate, Fort Monroe, VA 23651–5000.

Record source categories:

Source categories for prospects include the Army ROTC toll-free telephone number, magazines, newspapers, poster advertising coupons, mail-back reply cards, letters, walk-ins, referrals from parents, relatives, counselors, teachers, coaches, friends, associates, college registrars, dormitory directors, national testing organizations, honor societies, boys' clubs, boy scout organizations, Future Farmers of America, minority and civil rights organizations, fraternity and church organizations; neighborhood youth centers, YMCA, YWCA, social clubs, athletic clubs, boys state/girls state/ scholarship organizations, U.S. Army Recruiting Command, Military Academy Liaison officers, West Point non-select listing, previous employers, trade organizations, military service, and other organizations and commands comprising the Department of Defense.

Exemptions claimed for the system:

None.

[FR Doc. 90–26220 Filed 11–5–90; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before November 21, 1990.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to James O'Donnell, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: James O'Donnell (202) 708–5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from James O'Donnell at the address specified above.

Dated: October 31, 1990.

James O'Donnell,

Acting Director, for Office of Information Resources Management.

Office of Elementary and Secondary Education

Type of Review: Extension.
Title: Application for assistance for State educational agencies under the Stewart B. McKinney Homeless Assistance Act, title VII, subtitle B, sections 721, 722, 723.
Frequency: Annually.
Affected Public: State or local governments.
Reporting Burden:
Responses: 54.
Burden Hours: 562.

Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used by state education agencies to apply for funding under the Stewart B. McKinney Homeless Assistance Act program. The Department uses the information to make grant awards.

[FR Doc. 90–26130 Filed 11–5–90; 8:45 am]
BILLING CODE 4000–01–M

[CFDA No. 84.087]

Indian Fellowship Program; Inviting Applications for New Awards for Fiscal Year (FY) 1991

Purpose of Program: To provide fellowships enabling Indian students to pursue postbaccalaureate degrees in medicine, psychology, law, education, clinical psychology, and related fields, or undergraduate or postbaccalaureate degrees in business administration, engineering, natural resources, and related fields.

Deadline for Transmittal of Applications: January 11, 1991.

Applications Available: November 9, 1990.

Available Funds: The Congress has appropriated approximately $1,570,000 for this program in FY 1991. Approximately $600,000 will be available for new awards.

Estimated Range of Awards: $1,000–$30,000.

Estimated Number of Awards: 50.

Average Award: $12,000.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 82 (published at 55 FR 6736, February 26, 1990), 85, and 86 (published at 55 FR 33580, August 16, 1990); and (b) The regulations for this program in 34 CFR part 263.

FOR APPLICATIONS OR INFORMATION CONTACT: Dr. John Derby, Branch Chief, Indian Education Fellowship Program, Office of Indian Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 2171, Washington, DC 20202. Telephone (202) 401–1902.

Program Authority: 20 U.S.C. 2623.

Dated: October 30, 1990.

John T. MacDonald,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 90–26130 Filed 11–5–90; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Announcement of Dates, Locations and Times for Public Scoping Meetings on the Programmatic Environmental Impact Statement (PEIS) for the Department of Energy's Proposed Intergrated Environmental Restoration and Waste Management Program

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice.

SUMMARY: DOE announced on October 22, 1990, (55 FR 42633–8) that it intends to prepare a PEIS on the Department's proposed Integrated Environmental Restoration and Waste Management Program pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, et seq.) as amended, and to conduct a series of public scoping meetings nationwide. Today's Notice supplements the October 22, 1990, issuance and provides the dates, locations, times and DOE points-of-contact for the scoping meetings to be held in December 1990. The first two meetings will be held in Columbia, South Carolina, and in Richland, Washington, on December 3, and December 4, 1990, respectively. Subsequent meetings will be held in the following locations: Atlanta, Georgia; St. Louis, Missouri; and Spokane, Washington, on December 6, 1990; Amarillo, Texas, on December 10, 1990; Oak Ridge, Tennessee; Portland, Oregon; and Chicago, Illinois, on December 11, 1990; and Seattle, Washington, on December 13, 1990. The dates and locations of scoping meetings to be held in January and February 1991 will be published in a subsequent **Federal Register** notice.

Background

The PEIS will assess the potential environmental consequences of alternatives for implementing an integrated environmental restoration and waste management program. This program is expected to provide a broad, systematic approach to addressing cleanup activities and waste management practicers. The Department is committed to ensuring that potential risks to human health and the environment from the cleanup of contamination resulting from past operations and future waste management activities are at safe levels. DOE is further committed to full compliance with environmental regulations and to the goal of completing environmental restoration by 2019.

ADDRESSES AND FURTHER INFORMATION: Written comments on the scope of the PEIS, questions concerning the program, and requests for copies of the draft PEIS should be directed to: Mr. William E. Wisenbaker, Acting Director, Division of Program Support, Office of Environmental Restoration (EM–43), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (301) 353–2950.

For further information on the DOE NEPA process please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH–25), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600.

PUBLIC SCOPING MEETINGS AND INVITATION TO COMMENT: For the reader's convenience, the following is repeated from the October 22, 1990, Notice referenced above. DOE is committted to providing opportunities for the involvement of interested individuals and groups in this and other DOE planning activities. The public scoping process began with the October 22, 1990 **Federal Register** announcement that DOE will prepare a PEIS on its environmental restoration and waste management activities; this process will continue until February 19, 1991.

The public is invited to present oral or written comments concerning: (1) The scope of the PEIS, (2) the issues that should be addressed, and (3) the alternative integrated approaches to be analyzed in the PEIS. Written comments may be addressed to Mr. William E. Wisenbaker or the contract for the specific scoping meetings. These comments should be postmarked by February 19, 1991, to ensure consideration. The Department is also holding scoping meetings to facilitate receipt of public comment on the PEIS. These meetings will begin in December 1990; a total of 23 scoping meetings will be held nationwide. The schedule for the December scoping meeting is shown below.

Oral and written comments will be given equal consideration. Instructions for submitting written comments are given above. People desiring to speak at the public scoping meetings should submit their requests to do so to the contact persons designated for that meeting. Oral presentation requests for each meeting should be received by DOE at least two days before the meeting.

The meetings will be chaired by a presiding officer. They will be conducted as evidentiary hearings Speakers will not be cross-examined, although the DOE representatives present may ask them clarifying questions.

To ensure everyone an adequate opportunity to speak, five minutes will be allotted for each speaker. Depending on the number of persons requesting to speak, the presiding officer may allow more time for speakers representing multiple parties or organizations. Persons wishing to speak on behalf of organizations should identify the organization in their request. Persons who have not submitted a timely request to speak may register at the meetings, and will be called on to speak if time permits. Written comments also will be accepted at the meetings, and speakers are encouraged to provide written versions of their oral comments for the record.

DOE will make a transcript of each meeting. Copies will be made available for inspection at the DOE Freedom of Information Reading Room (room (1E-190), Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, during business hours, Monday through Friday and in local DOE reading rooms. Locations of local reading rooms for the December meetings are included in this Notice. The Reading Rooms for the January and February meetings will be provided in the subsequent **Federal Register** notice regrading these scoping meetings.

Issued in Washington, DC, this 2nd day of November 1990.

Paul L. Ziemer,

Assistant Secretary, Environment, Safety and Health.

Scoping Meeting Schedule

Meeting: Columbia, SC
Date: Monday, December 3, 1990
Time: 9 am–9:30 pm
Location: Park Inn International, 773 St. Andrews Road, Columbia, SC 29210, (803) 772–7275

Meeting: Atlanta, GA
Date: Thursday, December 6, 1990
Time: 9 am–9:30 pm
Location: Holiday Inn, Atlanta Peachtree Corners, 6050 Peachtree Industrial Blvd., Norcross, GA 30071, (404) 448–4400
Contact for the Two Meetings Above: Mr. Stephen R. Wright, Director Environmental Division, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802, 1–800–242–8269
Public Reading Rooms for the Two Meetings Above:
Aiken—Public Reading Room—DOE, Gregg Graniteville Library, 171 University Parkway, Aiken, SC 29801
Hours: 8 am–6 pm, Mon.–Fri. 12 pm–6 pm, Sat.
Oak Ridge—U.S. Department of Energy, Oak Ridge Operation Office, Public Reading Room, P.O. Box 2001, Oak Ridge, TN 37831
Hours: 8:30 am–4:30 pm, Mon.–Fri.

Meeting: St. Louis, MO
Date: Thursday, December 6, 1990
Time: 9 am–9:30 pm
Location: Clayton Plaza, 7730 Bonhomme Avenue, St. Louis, MO 63105

Meeting: Oak Ridge, TN
Date: Wednesday, December 11, 1990
Time: 9 am–9:30 pm
Location: American Museum of Science and Energy, 300 South Tulane Avenue, Oak Ridge, TN 37830
Contact for the Two Meetings Above:
Oak Ridge—Nelson Lingle, U.S. Department of Energy, Oak Ridge Operations Office, 200 Administration Road, Mail Stop EW–91, Oak Ridge, TN 37831–8541, (615) 576–0727
Public Reading Room for the Two Meetings Above:
Oak Ridge—U.S. Department of Energy, Oak Ridge Operations Office, Public Reading Room, P.O. Box 2001, Oak Ridge, TN 37831, Hours: 8:30 am–4:30 pm, Mon.–Fri.
St. Louis, MO—St. Louis County Library, 1640 S. Lindbergh Blvd., St. Louis, MO 63131, Hours: 8:30 am–9 pm, Mon.–Fri.; 8:30 am–9 pm, Sat.
St. Charles, MO—St. Charles County Library, Kisker Road Branch, Kisker Road, St. Charles, MO 63305; Hours: 8:30 am–9 pm, Mon.–Thurs.; 8:30 am–6 pm, Sat.

Meeting: Richland, WA
Date: Tuesday, December 4, 1990
Time: 9 am–9:30 pm
Location: Federal Building Auditorium 825 Jadwin Avenue, Richland, WA 99352

Meeting: Spokane, WA
Date: Thursday, December 6, 1990
Time: 9 am–9:30 pm
Location: Ridpath Hotel, W. 515 Sprague Avenue, Spokane, WA

Meeting: Portland, OR
Date: Tuesday, December 11, 1990
Time: 9 am–9:30 pm
Location: City Hall Council Chambers, 1220 SW Fifth Avenue, Portland, Oregon

Meeting: Seattle, WA
Date: Thursday, December 13, 1990
Time: 9 am–9:30 pm
Location: Henry M. Jackson Federal Building; North Auditorium 915 Second Avenue, Seattle, WA
Contact for the Four Meetings Above:
Richland— Ken Morgan, U.S. Department of Energy, 825 Jadwin, Mail Stop A775, Richland, WA 99352, (509) 376–7162
Pubic Reading Room for the Four Meetings Above:
Richland—Department of Energy, Richland Operations Public Reading Room, Federal Building, room 157 825 Jadwin Avenue, Richland, WA 99325 (509) 376–8583
Hours: 8 am–12 pm, and 1 pm; 4:30 pm, Mon.–Fri.; 9 am–1 pm, Sat.
Spokane—Crosby Library, Gonzaga University, E. 502 Boone, Spokane, WA 99258, (509) 328–4220 Hours: 8 am–12 am, Mon.–Thurs.
Thurday—8 am–9 pm, Fri.; 9 am–9 pm,; Sat. 11 am–12 am, Sun.
Portland—Portland State University Library, 934 S. W. Harrison, Portland, OR 97207, (503) 464–4617, Hours: 8 am–5 pm, Mon.–Fri; Closed Saturdays and Sundays
Seattle—University of Washington, Suzzalo Library, FM–25 Government Publications, Seattle, WA 98195, (206) 543–4664 Hours: 10 am–5 pm, Mon.–Fri.; Closed Saturdays and Sundays—8 am–8 pm, Mon,–Fri.; 8 am–6 pm, Fri.; 10 am–5 pm, Sat.

Meeting: Chicago, IL
Date: Tuesday, December 11, 1990
Time: 9 am – 9:30 pm
Location: Sheraton International Hotel at O'Hare, 6810 N. Mannheim Road, Rosemont, IL 60018
Contact for the Meeting Above:
Argonne, IL—Ms. Kimberly Phillips, U.S. Department of Energy, Chicago Operations Office, 9800 S. Cass Avenue, Argonne, IL 60439, (708) 972–2028
Public Reading Room:
Argonne, IL—U.S. Department of Energy, 9800 S. Cass Avenue, Argonne, Ill 60439, Hours: 8:30 am–5 pm, Mon.–Fri.

Meeting: Amarillo, TX
Date: Monday, December 10, 1990
Time: 9 am–9:30 pm
Location: Amarillo Civic Center, 401 S. Buchanan, Amarillo, TX 79101
Contact: Patrick J. Higgins, Jr., Division Director, Environmental Management Staff, Albuquerque Operations Office, Department of Energy, P.O. Box 5400, Albuquerque, NM 87115, (800) 633–7156 (24 Hours)
Public Reading Room: DOE Public Reading Room, Reference Department, Lynn Library and Learning Center, Amarillo College, 2201 South Washington, 4th Floor, Amarillo, TX 79109, 806–371–5400; Hours: 7:45 am–10 pm, Mon.–Thur.; 7:45 am–5 pm, Fri.; Closed Sat.; 2–6 pm, Sun.

[FR Doc. 90–26295 Filed 11–2–90; 11:56 am]
BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER90-568-000, et al.]

PSI Energy, Inc., et al.; Electric rate, Small power production, and Interlocking Directorate filings

October 30, 1990.

Take notice that the following filings have been made with the Commission:

1. PSI Energy, Inc.

[Docket No. ER90-568-000]

Take notice that on October 25, 1990, PSI Energy, Inc. tendered for filing its response to a request from the staff of the Commission for additional information in this docket. The information concerns various generation units of PSI Energy, Inc. and the rate proposed by PSI Energy, Inc. in this docket.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Dayton Power and Light Co.

[Docket No. ER91-45-000]

Take notice that on October 26, 1990, Dayton Power and Light Company (Dayton) tendered for filing an executed Purchase and Resale Agreement between Dayton and the Village of New Bremen, dated October 1, 1990.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Louisiana Energy and Power Authority v. Central Louisiana Electric Co.

[Docket No. EL91-3-000]

Take notice that on October 22, 1990, Louisiana Energy and Power Authority (LEPA) tendered for filing a complaint against Central Louisiana Electric Company (CLECO) requesting initiation of an investigation to determine whether certain of the rates and terms and conditions under which CLECO provides firm transmission service to LEPA are unjust, unreasonable, unduly discriminatory and anticompetitive. LEPA requests the Commission to set a refund effective date of not more than 60 days after the filing of the complaint. LEPA also moves to consolidate this docket with Docket No. ER90-39-000, in which CLECO is seeking an increase in its firm transmission rate.

Comment date: November 29, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. Arizona Public Service Co.

[Docket Nos. ER89-265-009 and EL89-26-007]

Take notice that on October 29, 1990, Arizona Public Service Company tendered for filing a Revision to the Compliance Refund Report filed in accordance with the Commission's letter of approval dated September 19, 1990.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. PSI Energy, Inc.

[Docket No. ER91-58-000]

Take notice that on October 29, 1990, PSI Energy, Inc. ("PSI") tendered for filing a supplement to Service Schedule D—Supplemental Power and Energy of the Power Coordination Agreement, dated August 27, 1982, as amended, between PSI and the Indiana Municipal Power Agency (IMPA), in order to provide certain Economic Development incentives under section 5 of said Service Schedule.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Maine Public Service Co.

[Docket No. ER91-57-000]

Take notice that on October 26, 1990, Maine Public Service Company (MPS) tendered for filing a proposed initial rate schedule pertaining to agreements entered into with Houlton Water Company (Houlton) covering transmission and back-up services by MPS for Houlton's entitlement in the Maine Yankee Atomic Power Plant. MPS has requested that the rate schedule become effective October 1, 1990, in accord with the terms of the agreements.

Comment date: November 14, 1990, in accordance with Standard Paragraph E end of this notice.

7. Dayton Power and Light Co.

[Docket No. ER91-55-000]

Take notice that on October 26, 1990, Dayton Power and Light Company ("Dayton") tendered for filing an executed Purchase and Resale Agreement between Dayton and the Village of Eldorado, Ohio.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

8. Dayton Power and Light Co.

[Docket No. ER91-54-000]

Take notice that on October 26, 1990, Dayton Power and Light Company ("Dayton") tendered for filing an executed Purchase and Resale Agreement between Dayton and the Village of Yellow Springs, Ohio.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

9. Dayton Power and Light Co.

[Docket No. ER91-52-000]

Take notice that on October 26, 1990, Dayton Power and Light Company ("Dayton") tendered for filing an executed Purchase and Resale Agreement between Dayton and the Village of Waynesfield, Ohio.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

10. Dayton Power and Light Co.

[Docket No. ER91-53-000]

Take notice that on October 26, 1990, Dayton Power and Light Company ("Dayton") tendered for filing an executed Purchase and Resale Agreement between Dayton and the Village of Versailles, Ohio.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

11. New England Power Co.

[Docket No. ER91-56-000]

Take notice that on October 26, 1990, New England Power Company ("NEP") tendered for filing a copy of a letter agreement with Boston Edison Company, dated Feburary 21, 1990, regarding a change in duration of the contract of August 1, 1982 for the sale of unit power from the NEP Bear Swamp Units and related transmission agreement. Under the terms of the letter agreement the previous contract termination date of November 5, 1990 will be changed to October 31, 1990.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

12. Dayton Power and Light Co.

[Docket No. ER91-50-000]

Take notice that on October 26, 1990, Dayton Power and Light Company ("Dayton") tendered for filing an executed Purchase and Resale Agreement between Dayton and the Village of Mendon, Ohio.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

13. Dayton Power and Light Co.

[Docket No. ER91-49-000]

Take notice that on October 26, 1990, Dayton Power and Light Company (Dayton) tendered for filing an executed Purchase and Resale Agreement between Dayton and the Village of Arcanum, dated October 1, 1990.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

14. Dayton Power and Light Co.

[Docket No. ER91-47-000]

Take notice that on October 26, 1990, Dayton Power and Light Company (Dayton) tendered for filing an executed Purchase and Resale Agreement between Dayton and the Village of Jackson Center, dated October 1, 1990.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

15. Dayton Power and Light Co.

[Docket No. ER91-48-000]

Take notice that on October 26, 1990, Dayton Power and Light Company (Dayton) tendered for filing an executed Purchase and Resale Agreement between Dayton and the Village of Lakeview, dated October 1, 1990.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

16. Dayton Power and Light Co.

[Docket No. ER91-46-000]

Take notice that on October 26, 1990, Dayton Power and Light Company (Dayton) tendered for filing an executed Purchase and Resale Agreement between Dayton and the Village of Minister, dated October 1, 1990.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

17. Minnesota Power and Light Co.

[Docket No. ER91-44-000]

Take notice that on October 25, 1990, Minnesota Power & Light Company tendered for filing its notice of termination of Supplement No. 2 to Rate Schedule FERC No. 124. The filing company states that the rate schedule, setting forth conditions for the purchase by it of standby capacity from the City of Two Harbors, Minnesota, with the payment to be reflected as a credit on the bill of Minnesota Power & Light Company to the city, has expired and been replaced by a separate agreement not subject to the jurisdiction of the Commission.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

18. El Paso Electric Co.

[Docket No. ER91-1-000]

Take notice that on October 29, 1990, El Paso Electric Company ("El Paso") tendered for filing a letter which amends its October 1, 1990 submittal of a Firm Transmission Service Agreement between El Paso and Salt River Project Agricultural Improvement and Power District. The letter establishes a ceiling on charges under the Agreement.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

19. Kansas City Power & Light Company

[Docket No. ER91-41-000]

Take notice that on October 24, 1990, Kansas City Power & Light Company tendered for filing a coordinating agreement among Associated Electric Cooperative, Inc., St. Joseph Light & Power Company, Nebraska Public Power District, Omaha Public Power District, City of Lincoln, Iowa Power Inc., and Kansas City Power & Light Company.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

20. Dayton Power and Light Co.

[Docket No. ER91-51-000]

Take notice that on October 26, 1990, Dayton Power and Light Company ("Dayton") tendered for filing an executed Purchase and Resale Agreement between Dayton and the City of Tipp City, Ohio.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

21. Gulf Power Co.

[Docket No. EL91-40-000]

Take notice that on October 24, 1990, Gulf Power Company submitted a revised page 7 of its request for waiver of FAC Regulations and revised pages for attachments 1, 2, 3, and 6 of its earlier filing in this docket. Gulf Power Company states that copies of the filed material have also been sent to those parties served with copies of its original filing in this docket.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

22. Minnesota Power & Light Co.

[Docket No. ER91-43-000]

Take notice that on October 25, 1990, Minnesota Power & Light Company tendered for filing its notice of termination of Rate Schedules FERC Nos. 147, 148, and 149. The filing company states that the rate schedules were filed in connection with an earlier proposed, but never completed, sale by Minnesota Power & Light Company to Northern States Power Company of a 40 percent interest in certain transmission and substation facilities associated with the Clay Boswell Steam Electric Generating Station, Unit No. 4, and the sale by Minnesota Power & Light Company to Northern States Power Company of its entitlement to capacity and energy from Square Butte's Young 2 generating unit and accompanying transmission leases.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

23. Arizona Public Service Co.

[Docket Nos. ER89-265-008 and EL89-26-006]

Take notice that on October 23, 1990, Arizona Public Service Company tendered for filing its compliance refund report resulting from the rate settlement agreement between Arizona Public Service Company and the Town of Wickenburg.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

24. American Electric Power Service Corp.

[Docket No. ER91-40-000]

Take notice that on October 24, 1990, American Electric Power Service Corporation tendered for filing Supplement No. 11, dated September 21, 1990, to the Agreement, dated April 1, 1974, between American Municipal Power-Ohio, Inc. ("AMP-Ohio") and Ohio Power Company. According to the filing company, the proposed Supplement No. 11 provides for the long-term sale of 100 megawatts of power and associated energy by Ohio Power Company to AMP-Ohio.

Comment date: November 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-26149 Filed 11-5-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP91-1-000]

Meridian Oil, Inc.; Petition to Reopen Final Determination and Withdraw Section 108 Well Category Application

October 30, 1990.

Take notice that on October 1, 1990, Meridian Oil, Inc. (Meridian) filed with the Federal Energy Regulatory Commission (Commission), pursuant to § 275.205 of the Commission's regulations, a petition to reopen a final determination and a request to withdraw its application that gas produced from the Huerfano Unit #108 well, located in San Juan County, New Mexico, qualifies under seciton 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V. 1982).

By letter dated August 30, 1990, Meridian requested the withdrawal of the petition for continued stripper qualification filed under NGPA § 271.805(e)(1)(II)(C) for temporary pressure buildup for the 90 day period ending March 31, 1989. According to Meridian, the actual producing days for the 90 day period ending March 31, 1989 were inaccurately reported by Meridian's field personnel and a subsequent adjustment to the record triggered a review of the record. Such review indicated a change to zero shut-in days for the period, that the well remained in a qualified state, and that no action was necessary for the period. Finally, Meridian states that if the determination is reopened, Meridian will not be required to make refunds because Meridian did not collect NGPA rates in excess of the otherwise applicable maximum lawful price.

Any person desiring to be heard or protest this petition should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 20, 1990. All protests filed will be considered, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules. Copies of this petition are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-26154 Filed 11-5-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-12-000]

Granite State Gas Transmission, Inc.; Tariff Filing Restating Base Tariff Rates

October 30, 1990.

Take notice that on October 26, 1990, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts, tendered for filing with the Commission the revised tariff sheets, listed below, in its FERC Gas Tariff, Second Revised Volume No. 1 and First Revised Volume No. 2, for effectiveness on November 27, 1990:

Second Revised Volume No. 1

First Revised Sheet No. 21
First Revised Sheet No. 36
First Revised Sheet No. 123

First Revised Volume No. 2

First Revised Sheet No. 28

According to Granite State, the revised tariff sheets comprise the restatement of its Base Tariff Rates in compliance with § 154.303(e) of the Commission's Regulations. Granite State's filing is accompanied by a cost of service study and supporting data to support the restated Base Tariff Rates. Granite State further states that the study shows that, on the basis of annualized costs for the 12 months ending July 31, 1990, the existing rates do not recover its cost of service and no change is proposed in existing rate levels for jurisdictional services.

Granite State states that its existing Base Tariff Rates were established in a settlement of its last section 4 rate filing in Docket No. RP87-87-000. According to Granite State, the filing in Docket No. RP87-87-000 was accepted, subject to refund, on September 18, 1987 and Granite State moved the suspended rates into effect on November 27, 1987, thus establishing the date for the commencement of the 36-month period for the restatement of the Base Tariff Rates.

It is further stated that the restated Base Tariff Rates are applicable to the jurisdictional sales services that Granite State renders to its two affiliated distribution company customers, Bay State Gas Company and Northern Utilities, Inc., and to a transportation service provided for Northern Utilities.

Granite State further states that copies of its filing have been served on the customers and the regulatory commissions of the states of Maine, New Hampshire and Massachusetts.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 6, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-26150 Filed 11-5-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-25-006]

Pacific Gas and Electric Co.; Application for Exemption

October 30, 1990.

Take notice that Pacific Gas and Electric Co. (PG&E), filed an application on September 10, 1990, for a modified compliance with the filing requirements of part 290 of the Federal Energy Regulatory Commission's (FERC) regulations, pertaining to the collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act of 1978, specified in subparts B, C, D, and E of part 290 [*See* Order No. 48, 44 FR 58687, October 11, 1979). PG&E requests a modified form of compliance, in lieu of the biennial filing requirements, coincident with the filing date and time established by the California Public Utilities Commission's Rate Case Plan.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal

Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period, such person must also serve a copy of such comments on: Mr. John T. Guardalabene, Pacific Gas and Electric Co., P.O. Box 7442, San Francisco, CA 94120.

Lois D. Cashell,

Secretary.

[FR Doc. 90-26147 Filed 11-5-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-2-28-002, TM91-3-28-002]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

October 30, 1990.

Take notice that on October 26, 1990 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Docket No. TM91-2-28-000

2nd Sub Second Revised Sheet No. 3-C.4
2nd Sub Second Revised Sheet No. 3-C.5
2nd Sub Second Revised Sheet No. 3-C.6

Docket No. TM91-3-28-000

2nd Sub Second Revised Sheet No. 3-C.7
2nd Sub Second Revised Sheet No. 3-C.8
2nd Sub Second Revised Sheet No. 3-C.9

The proposed effective date of these revised tariff sheets is October 1, 1990.

Panhandle states that revised tariff sheets were filed on October 10, 1990, in Docket Nos. TM91-2-28-000 and TM91-3-28-000 which reflected actual payments by its customers during August and September 1990, and from Michigan Consolidated Gas Company (MichCon) in November and December 1989, as directed by Commission Letter Orders dated September 28, 1990.

Panhandle further states that the revised tariff sheets listed above reflect the correction of the second year interest reconciliation adjustment calculation included in the October 10, 1990 filing.

Panhandle states that copies of this letter and enclosures are being served on all affected jurisdictional sales customers and appropriate state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before November 6, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-26151 Filed 11-5-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-12-002]

San Diego Gas & Electric Co.; Application for Exemption

October 30, 1990.

Take notice that the San Diego Gas & Electric Co. filed an application on September 14, 1990, for exemption from requirements of part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1990, information on the costs of providing electric service as specified in subparts B, C, D, and E of part 290. In addition, San Diego Gas & Electric Co. requests a waiver of the requirement that an application for exemption from the June 30, 1990 filing requirement be filed at least 18 months prior to the filing due date (*i.e.*, December 31, 1988), as specified in section 290.601(a). *See* 18 CFR 290.601(a) 1990.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period, such person must also serve a copy of such comments on: Mr. William L. Reed, Director, Regulatory Affairs Departments, San Diego Gas & Electric Co., P.O. Box 1831, San Diego, CA 92112.

Lois D. Cashell,

Secretary.

[FR Doc. 90-26148 Filed 11-5-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ91-1-8-002, TM91-1-8-002, and TF91-1-8-002]

South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

October 30, 1990.

Take notice that on October 26, 1990, South Georgia Natural Gas Company (South Georgia) tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Second Substitute Sixty-Fifth Revised Sheet No. 4
Second Substitute Sixty-Sixth Revised Sheet No. 4

The foregoing tariff sheets are submitted in compliance with the Commission's letter order of September 27, 1990 in Docket Nos. TQ91-1-8-000 and TM91-1-8-000 (September 27 Order). South Georgia states that the proposed tariff sheets are being filed with a proposed effective date of October 1, 1990. South Georgia states Second Substitute Sixty-Fifth Revised Sheet No. 4 and Second Substitute Sixty-Sixth Revised Sheet No. 4 reflect South Georgia's currently effective underlying base tariff rates and contract demand pursuant to the September 27 Order.

South Georgia states that copies of the filing will be served upon all of South Georgia's purchasers, shippers, interested state commissions and interested parties as well as on all parties of record in the subject proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washingon, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before November 6, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this

filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–26152 Filed 11–5–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM91–2–30–002]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

October 30, 1990.

Take notice that on October 26, 1990 Trunkline Gas Company (Trunkline) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Docket No. TM91–2–30–000

Sub Second Revised Sheet No. 3–A.5
Sub Second Revised Sheet No. 3–A.6

The proposed effective date of these revised tariff sheets is October 1, 1990.

Trunkline states that revised tariff sheets were filed on August 31, 1990 in Docket Nos. TM91–2–30–000 which reflected the second annual adjustment to carrying charges and monthly TOP Fixed Surcharges as provided in § 21.4(c) of Trunkline's FERC Gas Tariff, Original Vol. No. 1. These tariff sheets were approved by Commission Letter Order dated September 28, 1990.

Trunkline further states that the revised tariff sheets listed above reflect the correction of the second year interest reconciliation adjustment calculation included in the August 31, 1990 filing.

Trunkline states that copies of this letter and enclosures are being served on all affected jurisdicational sales customers and appropriate state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before November 6, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–26153 Filed 11–5–90; 8:45 am]

BILLING CODE 6717–01–M

Office of the Deputy Secretary

U.S. Alternative Fuels Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: United States Alternative fuels Council.

Date and Time: Thursday, November 15, 1990 9 a.m.–4:30 p.m. Friday, November 16, 1990, 8 a.m.–11:30 a.m.

Location: Hotel Atop The Bellevue, 1415 Chancellor Court, Philadelphia, Pennsylvania.

Contact: Mark Bower, Office of Policy, Planning and Analysis, U.S. Department of Energy, Mail Stop PE–50, Washington, DC 20585, Phone: (202) 586–3891.

Purpose of the Council: To provide advice to the interagency Committee on Alternative Motor Fuels to help:

1. "* * * coordinate Federal agency efforts to develop and implement a national alternative motor fuels policy."
2. "* * * ensure the development of a long-term plan for the commercialization of alcohols, natural gas, and other potential alternative motor fuels."
3. "* * * ensure communication among representatives of all Federal agencies that are involved in alternative motor fuels projects or that have an interest in such projects."
4. "* * * provide for the exchange of information among persons working with, or interested in working with, the commercialization of alternative motor fuels."

U.S. Alternative Fuels Council Agenda Outline

November 15, 1990.

9 a.m.–10:30 a.m.
Pipeline Gas (U.S. and Canada)
10:45 a.m.–12:15 p.m.
Foreign Gas for Methanol
1:15 p.m.–2:45 p.m.
Domestic Bio Feedstocks
3:00 p.m.–4:30 p.m.
LPG Feedstocks

Agenda Outline

November 16, 1990.

8 a.m.–11 a.m.
Consensus-Building on Alternative Fuels Issues
11 a.m.–11:30 a.m.
Public Comment Period

Public Participation: The meeting is open to the public. Written statements may be filed with the council either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact Mark Bower at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairpersons of the Council are empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: Available for public review and copying approximately 30 days following the meeting at the Public Reading room, room 1E190, Forrestal Building, 1000 Independence Ave., SW., Washington, DC between 9 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

Issued at Washington, DC, on November 1, 1990.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 90–26239 Filed 11–5–90; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

[FE Docket No. 90–86–NG]

Neste Trading (USA), Inc.; Application to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on September 28, 1990, of an application filed by Neste Trading (USA), Inc. (Neste), for blanket authority to import up to 50 Bcf of Canadian natural gas over a two-year period beginning on the date of the first delivery. Neste intends to utilize existing pipeline facilities for the transportation of the volumes imported and proposes to submit quarterly reports giving details of individual sales transactions. Neste also requests that an import authorization be granted on an expedited basis.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:40 p.m. e.s.t., December 6, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Engergy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Larine A. Moore, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–9478.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–6667.

SUPPLEMENTARY INFORMATION: Neste, a Delaware corporation with its principal place of business in Houston, Texas, is an indirect wholly owned subsidiary of Neste Oy, a foreign corporation organized under the laws of Finland. Neste conducts natural gas marketing and other marketing activities in the United States as agent for Neste Oy.

Under the blanket authority sought, Neste, acting either for its own account or for the account of others, would import natural gas from a variety of Canadian suppliers for resale to suitable purchasers, including local distribution companies, pipelines, and commercial and industrial end-users. The specific terms of each import transaction would be negotiated on an individual basis in response to prevailing gas market conditions. In support of its application, Neste asserts that prices will not remain fixed in any of its contracts for a period of more than a year.

The decision on the application for import authority will be made consistent with the DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines for the requested import authority. The applicant asserts that imports made under this requested arrangement will be competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

All parties should be aware that if this blanket import application is granted, the authorization may permit the import of the gas at any international border point where existing transmission facilities are located. A decision on Neste's request for expedited treatment of its application will not be made until all responses to this notice have been received and evaluated.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices on intervention, and written comments must meet the requirements that are specified by the rgulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trail-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, a notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Neste's application is available for inspection and copying in the Office of Fuels Programs Docket room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 31, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–26237 Filed 11–5–90; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 90–62–NG]

Northridge Petroleum Marketing U.S., Inc.; Order Granting Blanket Authorization to Export Natural Gas to Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an Order granting blanket authorization to export natural gas to Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Northridge Petroleum Marketing U.S., Inc. (Northridge U.S.) blanket authorization to export from the United States to Canada up to 300 Bcf of natural gas over a two-year period commencing with the date of first delivery

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket room, 3F–056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 31, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–26240 Filed 11–5–90; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 86–06–NG]

Tennessee Gas Pipeline Company; Order Amending Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an Order amending a previous authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order in ERA Docket No. 86–06–NG amending an authorization previously granted to Tennessee Gas Pipeline Company (Tennessee). The amendment permits Tennessee to export at St. Clair, Michigan and subsequently reimport at Niagara Falls, New York, some or all of the 75,000 Mcf per day of Canadian natural gas it is presently authorized to import from ProGas Limited at Emerson, Manitoba. No new pipeline construction is required.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday throug Friday, except Federal holidays.

Issued in Washington, DC, October 31, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–26236 Filed 11–5–90; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearing and Appeals

Cases Filed During the Week of August 31 Through September 7, 1990

During the week of August 31 through September 7, 1990, the appeals and applications for exception or other relief listed in the appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: October 31, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Aug. 31 to Sept. 7, 1990]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 6, 1990	Virgin Islands Energy Office, Frederiksted, St. Croix, USVI.	LEE–0017	Application for exception. If granted: The Virgin Islands Energy Office would be granted an exception from the provision of 10 CFR part 455 which requires that energy conservation grant funds for Schools and Hospitals which are unobligated at the end of Federal Fiscal Year be reallocated among all eligible U.S. states, territories, and possessions in the next Fiscal Year.
Sept. 6, 1990	Texaco/H & H Texaco, Hardin, Kentucky	RR321–15	Request for modification/rescission in the Texaco refund proceeding. If granted: The July 5, 1990 Decision and Order (Case No. RF321–1581) issued to H & H Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund application	Case No.
8/31/90 thru 9/7/90.	Crude Oil Refund Applications Received.	RF272–81203 thru RF272–81358.
8/31/90 thru 9/7/90.	Texaco Oil Refund Applications Received.	RF321–9334 thru RF321–9446.
8/31/90 thru 9/7/90.	Gulf Oil Refund Applications Received.	RF300–11785 thru RF300–11908.
9/4/90	Corn Construction Co.	RF328–1.
9/4/90	Crowell Oil	RF323–11.
9/4/90	G.L. Finney, Inc	RF323–12.
9/4/90	Ford Wholesale Co., Inc.	RF327–1.
9/4/90	Consolidated Fiberglass Prod.	RF327–2.

[FR Doc. 90–26238 Filed 11–5–90; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed: Jackson Port Authority, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200433.

Title: Jacksonville Port Authority/ Empresa Lineas Maritimas Argentinas, S.A. Terminal Agreement.

Parties: Jacksonville Port Authority (Port) Empresa Lineas Maritimas Argentinas (Empresa).

Synopsis: The Agreement provides Empresa certain tariff discounts for wharfage and receiving/delivery services for container and chassis. Empresa guarantees 24 annual vessel calls at the Port.

Agreement No.: 224–200434.

Title: Jacksonville Port Authority/ Companhia De Navegacao Maritima Netumar Terminal Agreement.

Parties: Jacksonville Port Authority (Port) Companhia De Navegacao Maritima Netumar (Netumar).

Synopsis: The Agreement provides Netumar certain tariff discounts for wharfage and receiving/delivery services for container and chassis. Netumar guarantees 20 annual vessel calls at the Port.

By Order of the Federal Maritime Commission.

Dated: October 31, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-26161 Filed 11-5-90; 8:45 am]

BILLING CODE 6730-01-M

[Petition No. P4-90]

Tropical Shipping & Construction Co., Ltd. Application for Section 35 Exemption; Filing

Notice is hereby given that Tropical Shipping & Construction Co., Ltd. ("Tropical") has applied for an exemption pursuant to section 35 of the Shipping Act, 1916, 46 U.S.C. app. 833a, and Rule 69 of the Commission's Rules of Practice and Procedure, 46 CFR 502.69. Specifically, Tropical seeks an order from the Federal Maritime Commission exempting carriers providing all-water transportation in the United States/United States Virgin Islands trade from compliance with certain provisions of section 2 of the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 844, to allow new or reduced individual commodity rates to be published on one day's notice.

In order for the Commission to make a thorough evaluation of the application for exemption, interested persons are requested to submit views or arguments on the application no later than December 7, 1990. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573-0001 in an original and 15 copies. Responses shall also be served on Paul D. Coleman, Esq., Hoppel, Mayer & Coleman, 1000 Connecticut Avenue, NW., Washington, DC 20036.

Copies of the application are available for examination at the Washington, DC office of the Commission, 1100 L Street, NW., room 11101.

Joseph C. Polking,

Secretary.

[FR Doc. 90-26162 Filed 11-5-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

[Docket No. R-0710]

Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Approval of a private sector adjustment factor and fee schedules for Federal Reserve Bank priced services for 1991.

SUMMARY: The board has approved a Private Sector Adjustment Factor ("PSAF") for 1991 of $85.8 million. This represents an increase of $6.4 million or 8.1 percent over the PSAF of $79.4 million targeted for 1990. The PSAF is a computation of imputed costs that takes into account the taxes that would have been paid and the return on capital that would have been provided had the Federal Reserve's priced services been furnished by a private business firm. The board has also approved 1991 fee schedules for Federal Reserve check collection, automated clearing house, wire transfer of funds and net settlement, book-entry securities, definitive safekeeping, and noncash collection services, and for electronic connections to the Federal Reserve. These actions were taken in accordance with the requirements of the Monetary Control Act of 1980, which requires that fees for Federal Reserve priced services be established on the basis of all direct and indirect costs, including the PSAF.

EFFECTIVE DATE: The PSAF and the fee schedules become effective January 1, 1991, with the exception of certain changes in the automated clearing house fee schedule, which become effective April 1, 1992.

FOR FURTHER INFORMATION CONTACT: For questions regarding the Private Sector Adjustment Factor: Paul Bettge, Manager, (202/452-3174) or Gregory Evans, Accounting Analyst, (202/452-3945), Division of Federal Reserve Bank Operations; for questions regarding fee schedules: Margaret Weimer, Financial Services Project Leader, Electronic Payments (202/452-3341), Nalini Rogers, Senior Financial Services Analyst, Check Payments (202/452-3801), or Felicia Cataldo, Financial Services Analyst, Securities (202/452-2223), Division of Federal Reserve Bank Operations, for the hearing impaired only: Telecommunications Device for the Deaf, Earnestine Hill or Dorothea Thompson (202/452-3544).

Copies of the 1991 fee schedules for check collection, automated clearing house, funds transfer and net settlement, book-entry securities, electronic connections, definitive safekeeping, and noncash collection are available from the local reserve Banks.

SUPPLEMENTARY INFORMATION:

Private Sector Adjustment Factor ("PSAF")

The board has approved a 1991 PSAF for the Federal Reserve Bank priced services of $85.8 million. This amount represents an increase of $6.4 million or 8.1 percent over the PSAF of $79.4 million targeted for 1990.

The Monetary Control Act of 1980 requires that fee schedules for the Federal Reserve's priced services include an allocation of imputed costs for "taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm." These imputed costs are based on data developed in part from a model comprised of the nation's 50 largest bank holding companies (BHCs).

Briefly stated, the methodolgy, which is unchanged from last year, first entails determining the value of Federal Reserve assets that will be used directly in producing priced services during the coming year, including the net effect of assets planned to be acquired or disposed of during the year. Short-term assets are assumed to be financed by short-term liabilities; long-term assets are assumed to be financed by a combination of a long-term debt and equity.

Imputed capital costs are determined by applying related interest rates and rate of return on equity derived from the bank holding company model to the assumed debt and equity values. The rates drawn from the BHC model are based on consolidated financial data for the 50 largest BHCs (in terms of asset size) in each of the last five years. Because short-term debt, by definition, matures within one year, only data for the most recent year are used for computing the short-term debt rate.

Capital costs, together with imputations for estimated sales taxes, FDIC insurance assessment on clearing balances held with the Federal Reserve to settle transactions, and expenses of the Board of Governors related to priced services, comprise the PSAF.

Details regarding the derivation of the PSAF are as follows:

Asset base. The estimated value of Federal Reserve assets to be used in providing priced services in 1991 is reflected in Table 1. Table 2 shows that the value of assets assumed to be financed through debt and equity are projected to total $530.7 million. This represents an increase of $43.0 million or 8.8 percent from 1990. This increase results largely from an increase in short and long-term prepayments of equipment maintenance costs as well as anticipated 1991 capital expenditures for bank premises and equipment.

Cost of capital, taxes and other imputed costs. Table 3 shows the financing and tax rates as well as the other required PSAF recoveries for 1991 and compares them with the rates used for developing the PSAF for 1990. The $4.9 million increase in the imputed FDIC insurance assessment is largely

attributable to an increase in the rate assessed against deposits.

Capital adequacy. As shown on table 4, the amount of capital imputed for the 1991 PSAF totals 26 percent of risk-weighted assets, well above the 8 percent capital guideline for state member banks and BHCs.

1991 Fee Schedules

The Monetary Control Act requires that, over the long run, fees for Federal Reserve priced services be established on the basis of all direct and indirect costs incurred in providing the priced services, including the PSAF. Total revenue for all Federal Reserve services, must, in the aggregate, recover all costs, including the PSAF. The Board's pricing principles state that fees will be set so that the revenues match costs (including the PSAF) for major service categories. The Board may set fees for a service line that do not fully recover costs, in the interest of providing an adequate level of services nationwide. The fees for each service line, however, must recover all operating costs, float costs, and certain imputed costs of providing that service, as well as contribute to the pre-tax return on equity.

Last year the Board approved fees that were set to recover 100.7 percent of the cost of providing priced services in 1990, including the PSAF and the cost of float. Through the first eight months of 1990, the System recovered 104.4 percent of total costs. The Reserve Banks estimate that total 1990 costs, including the PSAF, will be $734.9 million. Total revenue is estimated to be $754.9 million, resulting in a 102.7 percent recovery rate.[1]

In 1991, total priced services costs, including the PSAF, are projected to be $771.7 million. Total revenue is projected to be $777.2 million, resulting in a 100.7 percent recovery rate. The majority of the 1991 fees are the same as those currently in effect. Since 1984, as the table below shows, the System performance in matching costs and revenues has moved closer to its target of a 100 percent recovery.

[Dollar amounts in millions]

	Total priced financial services			Variation from 100 percent
	Total cost	Total revenue	Recovery rate (percent)	
1984	$519.1	$559.8	107.8	7.8
1985	571.2	603.8	105.7	5.7
1986	599.3	627.7	104.7	4.7
1987	627.3	649.7	103.5	3.5
1988	674.7	667.7	99.0	1.0
1989	730.3	718.7	98.4	1.6
1990 Estimated	734.9	754.9	102.7	2.7
1991 Projected	771.7	777.2	100.7	0.7

Following is a discussion of estimated 1990 and projected 1991 financial performance, and 1991 fees for the individual priced services.

Check collection. Comparisons of estimated 1990 and projected 1991 cost recovery performance for the commercial check service are shown in the table below.

[Dollar amounts in millions]

	Check collection		
	Total cost	Total revenue	Recovery rate (percent)
1990	$564.4	$578.1	102.4
1991	591.2	597.0	101.0

The total costs in the table do not include special projects, which would reduce the 1990 and 1991 recovery rates to 102.2 percent and 100.7 percent, respectively. Overall, 1991 check collection costs, including PSAF, are projected to increase 4.7 percent. Total check collection volume is projected to increase 1.9 percent.

Sixty-three percent of the 1991 fees for check services are the same as those currently in effect. The 1991 fees result in a 2.2 percent increase in forward and return check collection fees; the increase in forward collection fees is 1.2 percent while the increase in return item fees is 8.9 percent. Systemwide, 521 "processed" forward collection per item fees will remain unchanged, 189 fees will increase, and 49 fees will decrease. Forward check collection processed volume is projected to increase 1.2 percent in 1991, compared to an estimated 1.4 percent increase in 1990.

The processed forward collection per item fees include new tiered Regional Check Processing Center (RCPC) and country fees in seven Federal Reserve offices. Under tiered pricing, different fees are assessed depending on whether a check is presented to a high- or low-cost endpoint in a particular check collection zone. The Board approved tiered pricing as a permanent fee structure in the Minneapolis and Kansas City offices in 1986. At that time, the Board determined that other Federal Reserve districts could introduce tiered pricing if the following criteria were met: (1) The Board must approve the adoption of tiered pricing by any additional Federal Reserve office; (2) each office must offer tiered pricing as an option to the depositor in addition to an alternative fixed per item fee; (3) each office demonstrates clear cost differences between groups of items within a collection zone; and (4) each office anticipates potential net savings for a substantial amount of deposited volume or a substantial number of depositing institutions as a result of the implementation of the tiered pricing structure. The Board has approved the introduction of RCPC tiered pricing in 1991 for the Lewiston, Philadelphia, Cleveland, Cincinnati, Pittsburgh, and Columbus offices, and country tiered pricing in the Denver office. Each of these offices meets the criteria that have been established by the Board.

The increase in returned check fees is 8.9 percent, compared to a weighted average increase in 1990 fees of 15.2 percent. Of the 630 returned check fees, 259 will remain unchanged; 355 will increase; and 16 will decrease. Return

[1] The magnitude of the revenue and cost data reflected in this notice differs from that reported in the Board's Annual Report in that income on clearing balances and the cost of earnings credits are included on a net basis in income in this notice and are reflected in gross amounts in the Annual Report. In addition, the credit to expenses resulting from accounting for pensions in accordance with Financial Accounting Standards Board (FASB) Statement 87, Employer's Accounting for Pensions, is not reflected in price setting for individual services and is not included in this notice.

item volume is projected to increase 1.4 percent, with the percentage of total returns that are qualified, rather than deposited as raw returns, increasing slightly from an estimated 87.1 percent in 1990 to 88.6 percent in 1991.

A decrease of 3.0 percent in weighted average fine sort fees for both forward collection and return items was also approved. Of the fine sort fees, 155 will remain unchanged, 6 will increase, and 83 will decrease. Fine sort volume is projected to increase 4.0 percent in 1991, compared to 3.3 percent in 1990, due in part to lower fine sort fees.

Five Federal Reserve districts will partially or fully implement in 1991 a new payor bank services fee structure approved in June. The new structure, which will be implemented by all districts by January 1, 1992, will result in uniform pricing of payor bank services, including extended Magnetic Ink Character Recognition (MICR) capture and truncation services, and will encourage the transition from basic MICR services to extended MICR capture and truncation.[2] The Cleveland, Richmond, St. Louis, Minneapolis, and Dallas districts will implement the new structure in 1991.

The Board also has approved modifying 31 check collection deadlines for 1991. Most deadline changes will extend the current deadlines by times ranging from 15 minutes to 75 minutes.

Automated clearing house (ACH). Comparisons of estimated 1990 and projected 1991 cost recovery performance for the commercial ACH service are shown in the table below.

[Dollar amounts in millions]

	Automated clearing house		
	Total cost	Total revenue	Recovery rate (percent)
1990	$53.5	$52.8	98.7
1991	58.6	57.9	98.9

The total costs in the table do not include special projects, which would reduce the Reserve Banks' 1990 recovery rate estimate to 98.2 percent; no special project costs related to the ACH service are budgeted for 1991. The Board believes that the Reserve Bank estimated 1990 cost recovery is conservative and that the Reserve Banks will more fully recover costs in 1990 than estimated. Total ACH costs, including PSAF, are projected to increase $5.1 million or 9.5 percent in 1991, while commercial ACH volume is projected to increase 22.8 percent, which is comparable to the current year's rate of volume increase. The Board believes that it is difficult to predict accurately 1991 volume activity in light of the plans of a number of banks to begin a private, national exchange of ACH payments sometime in 1991. Consequently, the actual 1991 volume, and possible cost recovery, could be lower than budgeted.

Non-automated ACH fee revenue continues to decline as more depository institutions originate and receive ACH transactions electronically. The Board has approved the retention of most 1991 non-automated fees at the 1990 levels, with the exception of an increase in the magnetic tape input fee from $4.50 to $6.00, to more accurately reflect the cost of tape handling and the implementation of new security procedures for tape originators.

The Board has reduced the interdistrict transaction per item fee from 1.6 cents to 1.5 cents in 1991, continuing the trend of prior years to narrow the difference between local and interdistrict processing fees in recognition of the evolution of interstate banking. The Board has increased the fee for processing return items by 4.0 cents to 5.0 cents for an intradistrict transaction and to 5.5 cents for interdistrict transactions. The higher return item processing fees reflect the higher cost of same-day accounting and settlement for these transactions. Also, return items are frequently deposited in small batches, which increases automated processing costs.

The Board has approved a new ACH fee of $10 per month to cover the administrative costs of maintaining ACH participant records. The fee will be assessed on each depository institution routing number contained in the Reserve Banks' central information files identifying an ACH participant. The fee will cover the administrative costs of adding ACH participants to and deleting them from the files, updating the participants' records periodically, and preparing accounting and statistical reports. The fee also will encourage depository institutions to delete routing numbers that are obsolete as a result of mergers or processing consolidation at the depository institutions, which would improve overall processing efficiency. The fee is nominal in light of the amount of fixed cost associated with ACH participation.

All fees will become effective on January 1, 1991, with the exceptions of the new interdistrict transaction fee, the new return item fees, and the new ACH participant fee, which will become effective on April 1, 1991. Some of the price changes will require modifications to the Federal Reserve's ACH software. The April 1 implementation date will coincide with a new software release and will also provide depository institutions additional time to delete routing numbers that are obsolete as a result of mergers or processing consolidation.

Funds transfer and net settlement. Comparisons of estimated 1990 and projected 1991 cost recovery performance for the funds transfer and net settlement service are shown in the table below.

[Dollar amounts in millions]

	Funds transfer and net settlement		
	Total cost	Total revenue	Recovery rate (percent)
1990	$75.7	$80.2	106.0
1991	80.5	82.4	102.3

The total costs in the table do not include special projects, which would reduce the Reserve Banks' 1990 recovery rate estimate to 105.3 percent; no special project costs related to the funds transfer service are budgeted for 1991. The Board believes that the actual 1990 recovery will be higher than the Reserve Bank estimate, based on year-to-date experience. Total funds transfer costs, including the PSAF, are projected to increase $4.8 million or about 6.4 percent in 1991. The volume of funds transfers originated is expected to increase 5.8 percent in 1991, compared to an estimated increase of 5.7 percent in 1990.

The Board recently approved the implementation of a telephone notice service for funds transfers sent to off-line receiving banks, effective January 1, 1991. (55 FR 40711, October 4, 1990) Under the new service, off-line receiving banks will be notified of incoming third-party funds transfers, including non-value messages related to a transfer of funds. In addition, notice will be provided for settlement transfers (and related non-value messages) if the off-line receiving bank has advised its Reserve Bank that it acts in a

[2] Under the extended MICR capture service, presentment is made to the paying bank by electronic delivery of the MICR-line data. The physical checks are retained by the Federal Reserve Bank office by several days prior to delivery to the paying bank so the Federal Reserve can return those checks that have not been paid, per instructions of the paying bank. Under the truncation service, presentment to the paying bank is also made by electronic delivery of the MICR-line data, and the Federal Reserve provides return services. Unlike the extended MICR capture service, the physical checks are not delivered to the paying bank other than on an exception basis under the Federal Reserve's retrieval service.

correspondent capacity for another bank. The Board has approved maintaining the telephone notice surcharge at the 1990 level of $4.00 and assessing this fee for the new telephone notice service.

For 1991, the Board will maintain all funds transfer and net settlement service fees at their current levels.

Book-entry securities. Comparisons of estimated 1990 and projected 1991 cost recovery performance for the book-entry securities service [3] are shown in the table below.

[Dollar amounts in millions]

	Total cost	Book Entry	
		Total revenue	Recovery rate (percent)
1990	$10.2	$10.8	106.4
1991	11.2	11.2	100.1

The total costs in the table do not include special projects, which would reduce the estimated 1990 recovery rate to 104.9 percent; no special project costs related to the book-entry securities service are budgeted for 1991. Book-entry securities volume is projected to increase 4.3 percent in 1991 while costs will increase approximately 9.8 percent. Cost increases for the book-entry service are attributed primarily to changes in the methodology for distributing overhead and support costs as well as the costs of maintaining the current book-entry system.

The book-entry fees will remain unchanged in 1991. This is consistent with Treasury's decision to maintain the same fees for 1991 for book-entry transfers of its securities.

Electronic connections. Fees are charged for electronic connections to the Reserve Banks for Federal Reserve priced services. Cost and revenue associated with electronic access are allocated to the various priced services, based on usage.

The Board increased the fee for dedicated leased line connections from $600 to $700 for 1991, in order to more accurately reflect the cost of dedicated leased line circuits. The Board also has approved charging a new "gateway" access fee in 1991. Under gateway access, depository institutions with operations in different Federal Reserve districts can funnel their data communications traffic through one physical access point or gateway; Federal Reserve software will then handle the appropriate routing. The district in which the depository institution accesses the Federal Reserve will charge a monthly connection fee, and each district affected by gateway data transmissions will assess a $100 monthly surcharge to recover additional interdistrict data communications cost.

The Board also has increased the maximum amount the Reserve Banks can charge for computer-interface software certification from $4,000 to $8,000. The Reserve Banks charge depository institutions actual cost on a time and materials basis for software certification up to the maximum amount.

Definitive safekeeping and noncash collection. Comparisons of estimated 1990 and projected 1991 cost recovery performance for the definitive safekeeping and noncash collection service are shown in the table below.

[Dollar amounts in millions]

	Definitive safekeeping and noncash collection		
	Total cost	Total revenue	Recovery rate (percent)
1990	$16.2	$16.0	98.9
1991	15.7	15.4	98.1

Definitive safekeeping and noncash collection costs are expected to decrease by 3.4 percent in 1991 as Reserve Banks continue to monitor closely and adjust costs to volume declines. Definitive safekeeping volume in 1991 is expected to fall 26.2 percent and noncash collection volume is expected to decrease by approximately 9.8 percent. Volumes will continue to decline in this service, as no new bearer securities have been issued since 1983. Moreover, the significant volume decline in definitive safekeeping is also attributable to loss of customers and depository holdings and normal vault maturities. Noncash volume at the Federal Reserve and throughout the industry is decreasing as a result of continued depository immobilization of municipal securities, normal maturities of bearer securities, and issue of new securities in book-entry form.

In light of the significant decline in volumes, the System is developing a long-range plan for the Federal Reserve's continued involvement in the definitive safekeeping service and is beginning efforts to consolidate the noncash collection service. Specifically, the Board has approved the consolidation of the Minneapolis District's noncash collection service in two other districts effective January 1, 1991. Also, efforts to consolidate noncash collection processing across district lines have begun.

The Board has approved definitive safekeeping fee increases in six districts primarily to offset volume declines. The increases range from $3.00 to $8.00 for deposit and withdrawal fees; from $.45 to $1.00 for receipts/issues maintained; from $1.00 to $10.00 for purchases and sales and reregistrations; and, from $0.003 to $0.004 per month per $1,000 par value maintained. The Board has approved noncash collection fee increases in seven districts ranging from $.10 to $1.00 per envelope for collection of coupons and from $2.00 to $10.00 for processing return items and collection of matured or called bonds.

As previously indicated, the Board has approved the consolidation of the Federal Reserve Bank of Minneapolis' noncash collection service with two other districts on January 1, 1991. The consolidation of Minneapolis' noncash collection volume was prompted by that district's projected significant under recovery of costs in the upcoming years. Further cost reductions are not possible; further fee increases will only accelerate the decline in volume and increase the revenue shortfall. The Minneapolis District, therefore, will consolidate its noncash collection service at the Federal Reserve Bank of Cleveland and its Twelfth District noncash collection service [4] at the Jacksonville Branch of the Federal Reserve Bank of Atlanta. These consolidations will provide a Federal Reserve alternative to service users with items payable in the Ninth and Twelfth Districts; it will also avoid disruptions in service to Reserve Banks and depository institutions currently collecting items through the Federal Reserve System. Depository institutions will experience little change to the service received as a result of the consolidation.

Cash. Special cash services that are priced by the Federal Reserve Banks include (1) Cash transportation, (2) coin wrapping, (3) nonstandard packaging of currency orders and deposits, and (4) nonstandard frequency of access to cash services. Comparisons of the estimated 1990 and projected 1991 cost-recovery performance of the special cash services are shown in the table below.

[3] These financial data relate only to book-entry transfers of Government agency securities, which are priced by the Federal Reserve.

[4] Twelfth District and Ninth District noncash collections has been consolidated at Minneapolis a few years ago.

[Dollar amounts in millions]

	Cash		
	Total cost	Total revenue	Recovery rate (percent)
1990	$14.0	$14.7	105
1991	15.2	15.6	103

There will be no 1991 price changes for cash services.

Competitive impact analysis. The Board conducts a competitive impact analysis when considering an operational or legal change, if that change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints or due to a dominant market position of the Federal Reserve deriving from such legal differences. All operational or legal changes having a substantial effect on payments system participants are subject to a competitive impact analysis.

The Board believes that the only proposed change that may have a substantial effect on payment system participants is the imposition of a new ACH participation fee. The Board believes that the ACH monthly participation fee will have no adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services. While other service providers do not currently charge an explicit participation fee, they recover their administrative costs directly through the imposition of other fixed fees, for example, access fees. Imposition of a participation fee, which reflects the Federal Reserve's ACH product function, will not provide the Federal Reserve a competitive advantage over other service providers.

By order of the Board of Governors of the Federal Reserve System, October 31, 1990.

William W. Wiles,

Secretary of the Board.

TABLE 1—COMPARISON OF PRO FORMA BALANCE SHEETS FOR FEDERAL RESERVE PRICED SERVICES

[Millions of dollars—average for year]

	1991	1990
Short-term assets:		
Imputed reserve requirement on clearing balances	$244.1	$286.3
Investment in marketable securities	1,790.4	2,099.4
Receivables [1]	32.8	32.0
Materials and supplies [1]	8.2	7.1
Prepaid expenses [1]	13.7	9.6
Items in process of collection	3,637.5	3,838.9
Total short-term assets	5,726.7	6,273.3
Long-term assets:		
Premises [1] [2]	305.3	295.5
Furniture and equipment [1]	146.8	141.5
Leasehold improvements and long-term prepayments [1]	23.9	2.0
Capital leases	0.3	1.9
Total long-term assets	476.3	440.9
Total assets	6,203.0	6,714.2
Short-term liabilities:		
Clearing balances and balances arising from early credit of uncollected items	2,466.7	2,838.7
Deferred credit items	3,205.3	3,385.9
Short-term debt [3]	54.7	48.7
Total short-term liabilities	5,726.7	6,273.3
Long-term liabilities:		
Obligations under capital leases	.3	2.0
Long-term debt [3]	154.8	139.1
Total long-term liabilities	155.1	141.0
Total liabilities	5,881.8	6,414.3
Equity [3]	321.2	299.9
Total liabilities and equity	6,203.0	6,714.2

[1] Financed through PSAF; other assets are self-financing.
[2] Includes allocations of Board of Governors' assets to priced services of $0.5 million for 1991 and $0.3 million for 1990.
[3] Imputed figures; represent the source of financing for certain priced services assets.
Note: Details may not add to totals due to rounding.

TABLE 2—DERIVATION OF THE 1991 PSAF

[Millions of dollars]

A. Assets to be Financed: [1]	
Short-term	$54.7
Long-term [2]	476.0
Total	530.7
B. Weighted Average Cost:	
1. Capital Structure [3]	
Short-term Debt	10.3 (percent)

TABLE 2—DERIVATION OF THE 1991 PSAF—Continued

[Millions of dollars]

Long-term Debt	29.2 (percent)
Equity	60.5 (percent)
2. Financing Rates/Costs [3]	
Short-term Debt	8.6 (percent)
Long-term Debt	9.4 (percent)
Pre-tax Equity [4]	14.5 (percent)
Elements of Capital Costs:	
Short-term Debt	$54.7 × 8.6% = $4.7
Long-term Debt	154.8 × 9.4% = 14.5
Equity	321.2 × 14.5% = 46.7
Total	$65.9
C. Other Required PSAF Recoveries:	
Sales Taxes	$8.7
Federal Deposit Insurance Assessment	9.2
Board of Governors Expenses	2.0
	19.9
D. Total PSAF Recoveries	$85.8
As a percent of capital (percent)	16.2
As a percent of expenses [5] (percent)	14.7

[1] Priced service asset base is based on the direct determination of assets method.
[2] Consists of total long-term assets less capital leases, which are self-financing.
[3] All short-term assets are assumed to be financed by short-term debt. Of the total long-term assets, 33 percent are assumed to be financed by long term debt and 67 percent by equity.
[4] The pre-tax rate of return on equity is based on the average after-tax rate of return on equity, adjusted by the effective tax rate to yield the pre-tax rate of return on equity for each bank holding company for each year. These data are then averaged over five years to yield the pre-tax return on equity for use in the PSAF.
[5] Systemwide 1991 budgeted priced service expenses less shipping are $582.6 million.

TABLE 3—CHANGES BETWEEN 1991 AND 1990 PSAF COMPONENTS

	1991	1990
A. Assets to be Financed (millions of dollars):		
Short-term	$54.7	$48.7
Long-term	476.0	439.0
B. Cost of Capital:		
Short-term Debt Rate (percent)	8.6	7.3
Long-term Debt Rate (percent)	9.4	9.6
Pre-tax Return on Equity (percent)	14.5	15.5
Weighted Average Long-term Cost of Capital (percent)	12.9	13.6
C. Tax Rate (percent)	30.5	27.8
D. Capital Structure:		
Short-term Debt (percent)	10.3	10.0
Long-term Debt (percent)	29.2	28.5
Equity (percent)	60.5	61.5
E. Other Required PSAF Recoveries (millions of dollars):		
Sales Taxes	$8.7	$9.9
Federal Deposit Insurance Assessment	9.2	4.3
Board of Governors Expenses	2.0	1.7
F. Total PSAF:		
Required Recovery	$85.8	$79.4
As Percent of Capital (percent)	16.2	16.3
As Percent of Expenses (percent)	14.7	14.2

TABLE 4—COMPUTATION OF CAPITAL ADEQUACY FOR FEDERAL RESERVE PRICED SERVICES

[Millions of dollars]

	Assets	Risk weight	Weighted assets
Imputed reserve requirement on clearing balances	$244.1	0	0
Investment in marketable securities	1,790.4	0	0
Receivables	32.8	0.2	$6.6
Materials and supplies	8.2	1.0	8.2
Prepaid expenses	13.7	1.0	13.7
Items in process of collection	3,637.5	.2	727.5
Premises	305.4	1.0	305.4
Furniture and equipment	146.8	1.0	146.8
Leases and long-term prepayments	24.2	1.0	24.2
Total	$6,203.1		$1,232.4
Imputed Equity for 1991	$321.2		

TABLE 4--COMPUTATION OF CAPITAL ADEQUACY FOR FEDERAL RESERVE PRICED SERVICES—Continued

[Millions of dollars]

	Assets	Risk weight	Weighted assets
Capital to Risk-Weighted Assets (percent)	26.1		

[FR Doc. 90-26160 Filed 11-5-90; 8:45 am]
BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

[File No. 902 3010]

Miles Inc.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, an Indiana coporation from making any benefit claims relating to the consumption of any vitamin or mineral supplement, and from making any representation concerning the need for, or benefit from, consumption of any One-A-Day vitamin product, unless respondent possesses competent and reliable scientific evidence to substantiate such claim or representation.

DATES: Comments must be received on or before January 7, 1991.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Mark Kindt, Cleveland Regional Office, Federal Trade Commission, 668 Euclid Ave., suite 520-A, Cleveland, OH, (216) 522-4210.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with the accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Miles Inc., a corporation ("proposed respondent"), and it now appearing that proposed respondent is willing to enter into an agreement containing an Order to Cease and Desist from the use of the acts or practices being investigated,

It is hereby agreed by and between proposed respondent, by its duly authorized officer and its attorney and counsel for the Federal Trade Commission that:

1. Proposed respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its office and principal place of business located at 1127 Myrtle Street, Post Office Box 40, Elkhart, Indiana 46515.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft Complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's Decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review and otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement; and

(d) All claims under the Equal Access to Justice Act.

4. This Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission, it, together with the draft Complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Aggreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its Complaint (in such form as the circumstances may require) and Decision, in disposition of the proceeding.

5. This Agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft Complaint here attached.

6. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its Complaint corresponding in form and substance with the draft Complaint and its Decision containing the following Order to Cease and Desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the Order to Cease and Desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall became final upon service. Delivery by the United State Postal Service of the Complaint and Decision containing the agreed-to Order to proposed respondent's address as stated in this Agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The Complaint attached hereto may be used in construing the terms of the Order. No agreement, understanding, representation, or interpretation not contained in the Order or the Agreement may be used to vary or contradict the terms of the Order.

7. Proposed respondent has read the proposed Complaint and Order contemplated hereby. Proposed respondent understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violaton of the Order after it becomes final.

Order

I

It is ordered That respondent Miles Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of vitamin and/or mineral supplements, do forthwith cease and desist from representing, directly or by implication, that consumption of any such product:

(A) Affords any protection or benefit to human lungs;

(B) Is necessary or beneficial in replacing any vitamin and/or mineral lost through physical exercise;

(C) Is necessary or beneficial in replacing any vitamins and/or minerals lost as a result of, or provides any benefit with regard to, the stress of daily living;

unless, at the time such representation is made, respondent possesses and relies upon a reasonable basis consisting of competent and reliable scientific evidence to substantiate the representation; competent and reliable scientific evidence shall mean those tests, analyses, research, studies or other evidence, conducted and evaluated in an objective manner by persons qualified to do so using procedures generally accepted by others in the profession or science to yield accurate and reliable results.

II

It is further ordered That respondent Miles Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of One-A-Day brand vitamins, including specifically, but not limited to, One-A-Day Maximum Formula, One-A-Day Stressgard, One-A-Day Essential, One-A-Day Plus Extra C, and One-A-Day Within, do forthwith cease and desist from making any representation, directly or by implication, concerning the need for or benefits to be derived from consumption of such product unless, at the time such representation is made, respondent possesses and relies upon a reasonable basis consisting of competent and reliable scientific evidence to substantiate the representation; competent and reliable scientific evidence shall mean those tests, analyses, research, studies or other evidence, conducted and evaluated in an objective manner by persons qualified to do so using procedures generally accepted by others in the profession or science to yield accurate and reliable results.

III

It is further ordered That, for three (3) years from the date that the representations are last disseminated, respondent shall maintain and upon request make available to the Commission for inspection and copying:

(A) All materials relied upon to substantiate any claim or representation covered by this Order; and

(B) All tests, reports, studies, surveys or other materials in its possession or control that contradict, qualify or call into question such representation or the basis upon which respondent relied for such representation.

IV

It is further ordered That respondent shall distribute a copy of this Order to each officer and other person responsible for the preparation or review of advertising material for products subject to this Order.

V

It is further ordered That respondent shall notify the Commission at least thirty (30) days prior to the effective date of any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this Order.

VI

It is further ordered That respondent shall, within sixty (60) days after service of this Order, file with the Commission a report, in writing, setting forth in detail the manner in which it has complied with this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed Consent Order from Miles Inc., a corporation.

The proposed Consent Order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the proposed Order contained in the agreement.

This matter concerns advertisements by Miles Inc. for its One-A-Day brand multiple vitamins.

The Complaint alleges that Miles Inc. engaged in deceptive advertising in violation of sections 5 and 12 of the Federal Trade Commission Act by falsely implying that it had scientific substantiation for three advertising claims made for One-A-Day vitamins:

(A) Consumption of vitamins A, C and E in the form and amount contained in One-A-Day protects human lungs against the adverse effects caused by typical air pollution;

(B) The stress of daily living depletes vitamin B in the body so that consumption of a daily vitamin supplement, such as One-A-Day, is necessary or beneficial;

(C) Ordinary rigorous physical exercise depletes essential minerals in the body so that consumption of a daily vitamin supplement, such as One-A-Day, is necessary or beneficial.

The Consent Order contains provisions designed to ensure that in the future Miles Inc. has substantiation for the types of claims at issue here. Part I of the Order prohibits Miles Inc. from claiming that consumption of any vitamin and/or mineral supplements affords any protection or benefit to human lungs; is necessary or beneficial in replacing any vitamins and/or minerals lost through physical exercise; or is necessary or beneficial in replacing any vitamins and/or minerals lost as a result of, or provides any benefit with regard to, the stress of daily living, unless at the time the representation is made Miles Inc. possesses and relies upon a reasonable basis consisting of competent and reliable scientific evidence to substantiate the representation.

Part II of the Order prohibits Miles Inc. from making any representation concerning the need for, or benefits to be derived from, consumption of any One-A-Day vitamin product unless at the time such representation is made Miles Inc. possesses and relies upon a reasonable basis consisting of competent and reliable scientific evidence to substantiate the representation.

The remainder of the Order contains standard record-retention and notification provisions.

The purpose of this analysis is to facilitate public comment on the proposed Order. It is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 90-26221 Filed 11-5-90; 8:45 am]

BILLING CODE 6750-01-M

[File No. 891 0071]

Pepsico, Inc.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a soft drink concentrate manufacturer and bottler to divest, within a nine-month period, the soft drink business of the Twin Ports

Bottling Company, which respondent acquired from MEI Corporation in 1986. Respondent would also be required, for a period of ten years, to seek prior Commission approval before acquiring any soft drink distribution rights to non-Pepsi brands, in the Duluth, Minnesota area.

DATES: Comments must be received on or before January 7, 1991.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Marc Schildkraut, FTC/S–3302, Washington, DC 20580. (202) 326–2622.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The Federal Trade Commission (the "Commission"), having initiated an investigation into the 1986 acquisition by PepsiCo, Inc. ("PepsiCo") of the Twin Ports Seven-Up Bottling Company ("Acquisition") from MEI Corporation; and is now appearing that PepsiCo, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing consent order ("agreement") to divest certain assets and to cease and desist from certain acts and practices,

It is hereby agreed by and between PepsiCo, by its duly authorized officers and its attorneys, and counsel for the Commission, that:

1. Proposed respondent PepsiCo is a corporation organized, existing, and doing business under and by virtue of the laws of the State of North Carolina, with its executive offices and principal place of business located at 700 Anderson Hill Road, Purchase, New York 10577.

2. PepsiCo admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. PepsiCo waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

(d) All rights under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by the proposed respondent that the law has been violated as alleged in the draft of complaint hereto attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to PepsiCo, (a) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following Order in disposition of the proceeding, and (b) make information public with respect thereto. When so entered, the Order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to Order to PepsiCo at its address as stated in this agreement shall constitute service. PepsiCo waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation or interpretation not contained in the Order or the agreement may be used to vary or contradict the terms of the Order.

7. PepsiCo has read the proposed complaint and Order contemplated hereby. PepsiCo understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order. PepsiCo further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

For purposes of this Order, the following definitions shall apply:

A. "PepsiCo" means PepsiCo, Inc., a North Carolina corporation, its predecessors, any other corporations, partnerships, joint ventures, companies, subsidiaries, divisions, groups and affiliates controlled by PepsiCo, and their respective directors, officers, employees, agents and representatives, and their respective successors and assigns.

B. "Twin Ports" means the Twin Ports Seven-Up Bottling Company, an unincorporated division of the Pepsi-Cola Bottling Company of Minneapolis and St. Paul, a wholly-owned subsidiary of PepsiCo, which unincorporated entity is engaged in the soft drink business.

C. "Acquisition" means PepsiCo's acquisition of Twin Ports.

D. "Commission" means the Federal Trade Commission.

E. "Duluth area" means the Duluth, Minnesota area as described in Exhibit 2 to this Order.

F. "Person" means any natural person or any corporate entity, partnership, association, joint venture, governmental entity, trust or any other organization or entity.

G. "Twin Ports Soft Drink Business" means the carbonated and noncarbonated soft drink assets, as described in Exhibit 1 to this Order, acquired by PepsiCo through the Acquisition.

H. "Soft drink" means a carbonated soft drink, as classified under the four-digit Standard Industrial Classification industry code 2086.

I. "Primary bottler of PepsiCo-brand soft drinks" means the bottler that distributes or sells more PepsiCo-brand soft drinks by volume than any other bottler in the area.

J. "Obligations" means all actual and contingent liabilities of Twin Ports.

II

It is ordered That:

A. Within nine (9) months from the date this Order becomes final, PepsiCo shall divest, absolutely and in good faith, the Twin Ports Soft Drink Business. The purpose of the divestiture is to reestablish Twin Ports as an independent competitor and to remedy the alleged lessening of competition resulting from the Acquisition, as stated in the draft complaint.

B. The divestiture shall be made only to an acquirer that receives the prior approval of the Commission, and only in a manner that receives the prior approval of the Commission.

C. Pending divestiture, PepsiCo shall take all measures necessary to maintain the Twin Ports Soft Drink Business and to prevent any deterioration, except for normal wear and tear, of any part of the Twin Ports Soft Drink Business, so as not to impair the operating or competitive viability or market value of the Twin Ports Soft Drink Business.

III

It is Further ordered That:

A. At the time of the divestiture required by this Order or at any time thereafter, PepsiCo shall not interfere with any attempt by the acquirer of the Twin Ports Soft Drink Business to employ, in connection with the operation of the business to be divested, any personnel previously or currently employed by Twin Ports, or currently employed by PepsiCo and having significant responsibilities for the Twin Ports Soft Drink Business in the Duluth area, nor seek to enforce any employment contract against such personnel.

B. The Twin Ports obligations transferred by PepsiCo, if any, shall be either those carried by Twin Ports at the time of its acquisition by PepsiCo, or those carried by Twin Ports at the time of its divestiture by PepsiCo, whichever is smaller in amount.

IV

A. If PepsiCo has not divested the Twin Ports Soft Drink Business within the nine-month period provided by paragraph II of this Order, PepsiCo shall consent to the appointment of a trustee by the Commission to divest the Twin Ports Soft Drink Business. In the event the Commission or the Attorney General brings an action pursuant to section 5(1) of the Federal Trade Commission Act, 15 U.S.C. 45(1) or any other statute enforced by the Commission, PepsiCo shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties and any other relief available to it, including a court-appointed trustee, pursuant to section 5(1) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by PepsiCo to comply with this Order.

B. PepsiCo shall execute the trust agreement within sixty (60) days of the appointment of a trustee.

C. If a trustee is appointed by the Commission or a court pursuant to this Paragraph, PepsiCo shall consent to the following terms and conditions regarding the trustee's powers, authority, duties, and responsibilities:

(1) The Commission shall select the trustee, subject to the consent of PepsiCo, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisition and divestitures.

(2) The trustee shall have the exclusive power and authority, subject to the prior approval of the Commission, to divest the Twin Ports Soft Drink Business. The trustee shall have fifteen (15) months from the date of appointment to accomplish the divestiture. If, however, at the end of the fifteen-month period, the trustee has submitted a plan of divestiture or believes that divestiture can be accomplished within a reasonable time, the divestiture period may be extended by the Commission and, in the case of a court-appointed trustee, by the court.

(3) The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to PepsiCo's absolute and unconditional obligation to divest and the purpose of the divestiture as stated in Paragraph II of this Order and subject to the prior approval of the Commission. If the trustee receives bona fide offers from more than one prospective acquirer, and if the Commission approves more than one such acquirer, the trustee shall divest to the acquirer selected by PepsiCo from among those approved by the Commission.

(4) The trustee shall have full and complete access to the personnel, books, records and facilities of the Twin Ports Soft Drink Business, or any other information relevant to the Twin Ports Soft Drink Business, as the trustee may reasonably request. PepsiCo shall cooperate with the trustee and shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by PepsiCo shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or the court for a court-appointed trustee.

(5) The trustee shall serve, without bond or other security, at the cost and expense of PepsiCo on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have authority to employ, at the cost and expense of PepsiCo, such consultants, attorneys, investment bankers, business brokers, accountants, appraisers, and other representatives and assistants as are reasonably necessary to carry out the trustee's duties and responsibilities. The trustee shall account for monies derived from the divestiture and for all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid to PepsiCo, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a Commission arrangement contingent on the trustee divesting the Twin Ports Soft Drink Business.

(6) PepsiCo shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, or liabilities arising in any manner out of, or in connection with, the trustee's duties under this Order, except for any losses, claims, damages, or liabilities resulting from the trustee's negligence or willful misconduct.

(7) Within sixty (60) days after appointment of the trustee and subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, PepsiCo shall, consistent with provisions of this Order, transfer to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this Order.

(8) If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in this Order.

(9) The Commission and, in the case of a court-appointed trustee, the court may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this Order.

(10) The trustee shall have no obligation or authority to operate or maintain the Twin Ports Soft Drink Business.

(11) The trustee shall report in writing to PepsiCo and to the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

V

It is further ordered That, for a period commencing on the date this Order becomes final and continuing for ten (10) years, PepsiCo shall not acquire, without the prior approval of the Commission, directly or indirectly, through subsidiaries or otherwise, (1) any right to distribute any soft drink in the Duluth area; (2) any interest in, or any stock or share capital of any entity that owns or otherwise has any right to distrubite any soft drink in the Duluth area. Provided, however, the prohibitions of this Paragraph V, shall not apply to any right to distribute any soft drink held by, or any interest in, or any stock or share capital of the primary bottler of PepsiCo-brand soft drinks in the Duluth area.

VI

It is further ordered That on the first anniversary of the date this Order becomes final, on every anniversary thereafter for the following ten (10) years, and at such other times as the Commission or its staff may request, PepsiCo shall submit a verified written report setting forth in detail the manner and form of its compliance with Paragraph V. of this Order. Such reports filed by PepsiCo shall include a listing of all acquisitions in the Duluth area made by PepsiCo without the prior approval of the Commission under Paragraph V. of this Order.

VII

It is further ordered That PepsiCo shall notify the Commission at least thrity (30) days prior to any proposed corporate change in respondent, such as dissolution, assignment or sale resulting in the emergence of a successor entity, the creation or dissolution of subsidiaries or any other change in the corporation, that may affect compliance with the obligations arising out of this Order.

Exhibit 1—Twin Ports Soft Drink Business

The Twin Ports Soft Drink Business includes all franchises, licenses, bottling appointments, distribution and other agreements with respect to the Seven-Up, Dr Pepper, A&W, Squirt, and Lipton brands distributed or sold in the Duluth area; together with four (4) trucks, three (3) forklifts, three (3) vans, vending machines, visi-coolers, fountain equipment, full goods inventory, and point-of-sale marketing materials dedicated to those products in the Duluth area; funded employee benefit

pension plans for employees of the Twin Ports Soft Drink Business in the Duluth area; supply arrangements; customer lists; trade names and goodwill relating to the Twin Ports Soft Drink Business in the Duluth area. The Twin Ports Soft Drink Business in the Duluth area also includes all customers agreements or understandings, whether formal or informal in effect at the time of divestiture, and all customer records and files existing at the time of divestiture.

Exhibit 2—Duluth, Minnesota Area

The Duluth, Minnesota area shall consist of: (1) Cook County and Lake County, Minnesota, (2) Douglas County, Wisconsin; (3) Carlton County, Minnesota, except for the town of Moose Lake for A&W, Dr Pepper, Lipton, and Seven-Up; and the following additional counties or portions thereof for the products specified:

A. Lipton

1. Aitkin County, Minnesota

That portion east of a line commencing at the junction of the south boundary of Lakeside township and Mille Lacs, drawn north to the northwest corner of Lakeside township; thence east to the northeast corner of Lakeside township, thence north to the northwest corner of Jevne township; thence east to the northeast corner of McGregor township; thence north to the Aitkin-Itasca County line.

2. St. Louis County, Minnesota

That portion south and east of an east-west line from the junction of the St. Louis-Lake County line and the south boundary of Easset township, due west to the notrhwest corner of Colvin township, thence south to the southeast corner of Ellsburg township, thence west to the St. Louis-Itasca County line.

B. Squirt

1. Aitkin County, Minnesota

That portion of Aitkin county north of an east-west line drawn through a point two miles south of the town of Aitkin.

2. St. Louis County, Minnesota

That portion of St. Louis County south of an east-west line drawn through a point two miles north of the town of Cotton.

3. Bayfield County, Wisconsin

All of Bayfield County, except that portion east of a line beginning at a point where Highway #13 crosses the Ashland-Bayfield county line and extending from this point north along with highway to the town of Red Cliff and excepting the town of Red Cliff and all stops, towns and outlets on said highway.

C. A&W

1. Itasca County, Minnesota

2. Cass County, Minnesota

All of Cass county except that portion bounded on the south by the southern boundary of Deerfield, Powers, and Ponto Lake townships and on the east by the eastern boundary of Ponto Lake, Woodrow and Pike Lake townships and a continuation of this north-south line to the northern boundary of the county.

3. Crow Wing County, Minnesota

All of Crow Wing County except the Village of Fort Ripley.

4. Koochiching County, Minnesota

The town of Cragville only.

5. St. Louis County, Minnesota

That portion of St. Louis County south and east of a line starting at a point on the northern boundary of St. Louis due north of east edge of Finsted Lake, thence south to the east edge of Finsted Lake, thence southwest to a point two miles due south of Gheen Corner, then due west to Koochiching-St. Louis Line.

6. Bayfield County, Wisconsin

7. Ashland County, Wisconsin

The townships of Ashland, Gingles, La Pointe, Marengo, Morse, Sanborn, and White River only.

D. Dr Pepper

1. Itasca County, Minnesota

2. Aitkin County, Minnesota

That portion north of an east-west line running through the most northern point on the boundary of the town of McGregor. It is intended by this description to exclude from the Duluth territory the town of McGregor and all other dealer outlets located on the east-west line described herein. This description is as so located on February 3, 1965.

3. St. Louis County, Minnesota

That portion south of an east-west line drawn through the most southern point on the boundary of the town of Cotton, Minnesota. It is intended by this description to exclude from the Duluth franchised territory the towns of Ore, Cotton, and Toivola and all other towns and dealer outlets located on the above described east-west line. This description is as so located on September 24, 1963.

4. Cass County, Minnesota

That portion north of an east-west line running through the most northern point on the boundary of the town of Walker and east of a line beginning at the most northern point on the boundary of the town of Walker; thence, northeast on a straight line to the point U.S. Highway No. 2 intersects the west boundary of Bena; thence, northwest on a straight line to the Beltrami County line due east of the town of Pennington. It is intended by this description to exclude from the Duluth territory the towns of Walker and Bena and all other dealer outlets located on the line described herein. This entire description is as so located on February 3, 1965.

E. Seven-Up

1. Aitkin County, Minnesota

That portion east of a line commencing at the junction of the south boundary of Lakeside township and Mille Lacs, drawn north to the northwest corner of Lakeside township; thence east to the northeast corner of Lakeside township; thence north to the northwest corner of Jevne township; thence east to the northeast corner of McGregor township; thence north to the Aitkin-Itasca County line.

2. Itasca County, Minnesota

Goodland and Wawina townships only.

3. St. Louis County, Minnesota

That portion south and east of an east-west line from the junction of the St. Louis-Lake County line and the south boundary of Basset township, due west to the northwest corner of Colvin township, thence south to the southwest corner of Ellsburg township, thence west to the St. Louis-Itasca County line.

4. Bayfield County, Wisconsin

5. Ashland County, Wisconsin

That portion north of the northern boundary of Gordon Township.

Analysis to Aid Public Comment on Provisionally Accepted Consent Order

The Federal Trade Commission has accepted for public comment from PepsiCo, Inc. ("PepsiCo"), an agreement containing a proposed consent order.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments from interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and comments received, and will decide whether it should withdraw from the agreement, make final the agreement's order or modify the order.

The Commission's investigation of this matter concerns the 1986 acquisition of Twin Ports Bottling Company by PepsiCo from MEI Corporation. PepsiCo is a soft drink concentrate manufacturer. PepsiCo supplies Pepsi-brand syrup or concentrate to its franchised bottlers operating in local markets in the United States. PepsiCo's franchised bottlers also sell other soft drinks. PepsiCo is a bottler of Pepsi-brand and other soft drinks in a number of these local markets.

The agreement containing the proposed consent order, if issued by the Commission, would settle the complaint. The complaint alleges that PepsiCo's acquisition of Twin Ports in Duluth, Minnesota and a twelve-county area in and around Duluth would substantially lessen competition in all or branded carbonated soft drinks in that area and would violate section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act, unless an effective remedy eliminates the anticompetitive effects. The Duluth area includes the following counties or portions of counties: Cook and Lake Counties, Minnesota; Douglas County, Wisconsin; parts of Carlton, Aitkin, St. Louis, Itasca, Cass, Crow, and Koochiching Counties, Minnesota; and parts of Bayfield and Ashland Counties, Wisconsin.

PepsiCo sells non-Pepsi brands in competition with the Pepsi brands sold by its franchised bottler in these counties. The risk of inter-brand collusion is increased in these counties. Absent the Commission's order, PepsiCo would remain both a bottler of other soft drink brands and a supplier of concentrate to its Pepsi bottler.

The proposed consent order requires PepsiCo to divest Twin Ports within a nine-month period. The proposed order also contains a requirement that PepsiCo seek prior Commission approval for a period of ten years from the date the order becomes final before acquiring the rights to distribute non-Pepsi brands or before acquiring any person with such rights in the Duluth area.

The proposed order would resolve the competitive problems alleged in the complaint. The purpose of this analysis is to invite public comment concerning the proposed order to assist the Commission in its determination to make final the order contained in the agreement.

This analysis is not intended to constitute an official interpretation of the agreement and the proposed order or to modify its terms in any way.

Donald S. Clark,

Secretary.

[FR Doc. 90-26222 Filed 11-5-90; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90N-0373]

Drug Export; PHOTOFRIN® Porfimer Sodium 15 MG and 75 MG Vials

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Lederle Laboratories, a Divison of American Cyanamid Co., has filed an application requesting approval for the export of the human drug PHOTOFRIN® porfimer sodium 15 mg and 75 mg vials to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Frank R. Fazzari, Division of Drug Labeling Compliance (HFD-313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Lederle Laboratories, a Division of American Cyanamid Co., Pearl River, NY 10965, has filed an application requesting approval for the export of the human drug PHOTOFRIN® porfimer sodium 15 mg and 75 mg vials to Canada. This drug is indicated for use in the treatment of lung, bladder, and esophageal cancers. The application was received and filed in the Center for Drug Evaluation and Research on September 20, 1990, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by November 16, 1990, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: October 24, 1990.

Daniel L. Michels,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 90-26193 Filed 11-5-90; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress:

Advisory Council on Nurses Education.

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading room, room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Law Library, HHS North Building, room G-619, 330 Independence Avenue, SW., Washington, DC, telephone (202) 245-6791. Copies may be obtained from: Dr. Mary S. Hill, Executive Secretary, Advisory Council on Nurses Education, room 5C-14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-6193.

Dated: November 1, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90-26245 Filed 11-5-90; 8:45 am]

BILLING CODE 4160-15-M

Health Education Assistance Loan Program, "Maximum Interest Rates for Quarter Ending December 31, 1990"

Section 727 of the Public Health Service Act (42 U.S.C. 294) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools.

Section 60.13(a)(4) of the program's implementing regulations (42 CFR part 60, previously 45 CFR part 126) provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending December 31, 1990, three interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 11¼ percent. Using the regulatory formula (45 CFR 126.13(a)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (7.74 percent), and rounding the result (11.24 percent) upward to the nearest ⅛ percent (11¼ percent).

However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. Because the average rate of the 4 quarters ending December 31, 1990, is not in excess of 12 percent, there is no necessity for reducing the interest rate. For the previous 3 quarters the variable interest at the annual rate was as follows: 11½ percent for the quarter ending March 31, 1990; 11⅝ percent for the quarter ending June 30, 1990; and 11⅝ percent for the quarter ending September 30, 1990.

2. For variable rate loans executed during the period of January 27, 1981 through October 21, 1985, the interest rate is 11¼ percent. Using the regulatory formula (42 CFR 60.13 (a)) in effect for that time period, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (7.74 percent); adding 3.50 percent (11.24 percent); and rounding that figure to the next higher one-eighth of 1 percent (11¼ percent).

3. For fixed rate loans executed during the period of October 1, 1990 through December 31, 1990, and for variable rate loans executed on or after October 22, 1985, the interest rate is 10¾ percent. The Health Professions Training Assistance Act of 1985 (Pub. L. 99–129), enacted October 22, 1985, amended the formula for calculating the interest rate by changing 3.5 percent to 3 percent. Using the regulatory formula (42 CFR 60.13(a)), the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (7.74 percent); adding 3.0 percent (10.74 percent) and rounding that figure to the next higher one-eighth of 1 percent (10¾ percent).

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: October 31, 1990.

Robert G. Harmon,

Administrator.

[FR Doc. 90–26192 Filed 11–05–90; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

The 1990 State/Federal Natural Resource Damage Assessment and Restoration Plan for the Exxon Valdez Oil Spill

AGENCY: Department of Interior.

ACTION: The 1990 State/Federal Natural Resource Damage Assessment and Restoration Plan for the *Exxon Valdez* Oil Spill; extension of comment period to November 30, 1990.

SUMMARY: This Notice announces a 30 day extension of time for comments on the 1990 State/Federal Natural Resource Damage Assessment and Restoration Plan. This joint State/Federal plan has been prepared by the Trustee Council and was made available to the public on September 15, 1990.

DATES: All comments concerning the plan must be written and submitted to the following address by November 30, 1990: Trustee Council, P.O. Box 22755, Juneau, Alaska 99802.

ADDRESSES: A copy of the 1990 assessment and restoration plan may be obtained by contacting the Trustee Council at one of the following addresses: Trustee Council, c/o U.S. Forest Service Public Affairs (telephone (907) 586–8806, P.O. Box 22755, Juneau, Alaska 99802 or Trustee Council c/o Deputy Director, U.S. Fish and Wildlife Service, room 3340, 1849 C Street, NW., Washington, DC 20240 (telephone (202) 208–6286).

FOR FURTHER INFORMATION CONTACT: U.S. Forest Service Public Affairs Office (907) 586–8806.

SUPPLEMENTARY INFORMATION: The March 24, 1989 grounding of the tanker *Exxon Valdez* resulted in the discharge of approximately 11 million gallons of North Slope crude oil into Alaska's Prince William Sound. The oil moved through the southwestern portion of the Sound and along the coast of the western Gulf of Alaska, affecting natural resources.

The natural resources Trustees (the State of Alaska, U.S. Departments of Agriculture and the Interior, and the National Oceanic and Atmospheric Administration) instituted a natural resource damage assessment process to estimate the damages for injury, loss or destruction of trustee resources as a result of the tanker accident, as authorized under section 311 of the Clean Water Act (CWA) and section 107 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). To accomplish this task, the Trustees established a Trustee Council, based in Alaska, to manage the assessment process. The Environmental Protection Agency (EPA) is an advisor to the Trustees and Trustee Council and has been designated by the President to coordinate the overall long-term restoration of the affected area on behalf of the Federal Trustees. The Trustees, through the Trustee Council, have prepared the 1990 State/Federal Natural Resource Damage Assessment and Restoration Plan for the *Exxon Valdez* Oil Spill. The studies in the 1990 plan build upon the 1989 damage assessment studies. These studies are designed to identify the nature and extent of the injury to, loss of, or destruction of natural resources and will lead to a determination of damages as compensation for that injury, loss or destruction. The plan also includes several restoration feasibility projects.

The Trustee Council has received comments requesting that the comment period be extended for an additional 30 days. This notice announces extension of the comment period until November 30, 1990.

Dated: October 31, 1990.

Martin J. Suuberg,

Deputy Solicitor.

[FR Doc. 90–26129 Filed 10–31–90; 3:08 pm]

BILLING CODE 4310–10–M

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On August 27, 1990, a notice was published in the **Federal Register** (Vol. 55, FR #166) that an application had been filed with the Fish and Wildlife Service by the Fish & Wildlife Service, Alaska Fish & Wildlife Research Center, PRT–690038, for a permit to continue take activities with Polar bears (*Ursus maritimus*) through 1995 for scientific research purposes.

Notice is hereby given that on October 15, 1990, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Fish and Wildlife Service issued the requested

permit subject to certain conditions set forth therein.

The permits are available for public inspection during normal business hours at the Office of Management Authority, 4401 N. Fairfax Dr., Arlington VA., 22203, room 432.

Dated: October 31, 1990.

R.K. Robinson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 90-26144 Filed 11-5-90; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Application for Permit

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR part 18).

Applicant

Name: U.S. Fish and Wildlife Service, Alaska Fish & Wildlife Research Center, 1011 East Tudor Road, Anchorage, Alaska 99503; File No. PRT-740507.

Type of permit: Scientific Research.

Name of animals: Alaska sea otters (*Enhydra lutris*).

Summary of activity to be authorized: Amendment of current permit to allow the import of parts of deceased otters that were previously placed in zoos or aquaria in other countries.

Period of activity: At least through 1991.

Concurrent with the publication of this notice in the Federal Register, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the amendment request, or requests for a public hearing on this application should be submitted to the Director, Office of Management Authority (OMA), 4401 N. Fairfax Dr., room 432, Arlington, VA 22203, within 30 days of the publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents submitted in connection with the above application are available for review during normal business hours (7:45 am to 4:15 pm) at 4401 N. Fairfax Drive, room 430, Arlington, VA 22203.

Dated: October 31, 1990.

R.K. Robinson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 90-26145 Filed 11-5-90; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Atlantic Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of the availability of environmental documents prepared for an outer continental shelf (OCS) minerals exploration proposal on the Atlantic OCS.

SUMMARY: The MMS, in accordance with Federal regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of a NEPA-related Environmental Assessment (EA) and a Finding of No Significant Impact (FONSI) prepared by the MMS for oil and gas exploration activities proposed on the Atlantic OCS.

Proposal

Mobil Oil Exploration and Producing Southeast Incorporated (designated as the operator of a 21-block exploration unit by the other lessees, Amerada Hess, Chevron, Conoco, Marathon, Occidental, Shell, and Union) proposes to drill a single exploratory well on OCS Block NI 18-2-467 (Lease OCS-A 0236). The proposed well would be located approximately 39 miles due east of Salvo, NC in 2,690 feet of water. The proposal is to drill the well from the SONAT drillship *Discoverer 534* or like vessel over an approximate 114-day period during the first favorable weather window (*i.e.*, May through October) following receipt of all permits and approvals.

The 21 blocks comprising the Manteo Prospect and included in the Manteo Unit were leased during OCS Lease Sale 56 (September 1981) and OCS Lease Sale 78 (September 1983). All of these leases have primary lease terms of 10 years and are currently covered by a Suspension of Operations.

The EA and FONSI prepared for the proposed action of drilling a single exploratory well on Block 467 were completed by the Atlantic OCS regional office of the MMS on September 28, 1990. Persons interested in reviewing environmental documents for the proposal listed above or obtaining information about EA's and FONSI's prepared for activities on the Atlantic OCS are encouraged to contact the MMS in the Atlantic OCS Region.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Atlantic OCS Region, Office of the Regional Supervisor, for Leasing and Environment, 381 Elden Street, suite 1109, Herndon, VA 22170-4817, telephone: (703) 787-1110, FTS 393-1110.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Atlantic OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. The EA is used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2) (C). A FONSI is prepared in those instances where MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This Notice constitutes the public Notice of Availability of environmental documents required under the NEPA regulations.

Dated: October 29, 1990.

Bruce G. Weetman,

Regional Director, Atlantic OCS Region.

[FR Doc. 90-26142 Filed 11-5-90; 8:45 am]

BILLING CODE 4310-MR-M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the availability of environmental documents prepared for OCS mineral proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Environmental Assessments (EA's) and Findings of No Significant Impact (FONSI's), prepared by the MMS for the following oil and gas activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for

which the FONSI's were prepared by the Gulf of Mexico OCS Region in the period subsequent to publication of the preceding notice.

Activity/Operator	Location	Date
GFS Company, Geophysical Exploration for Mineral Resources, SEA No. L89-123.	Eugene Island Area, Blocks 37, 38, and 58; 4 miles offshore Louisiana; Ship Shoal Area, Blocks 2, 8, 9, 10, 11, 12, 13, 14, 28, and 29; 4 miles offshore Louisiana.	6/29/90
Transcontinental Gas Pipe Line Corporation, Pipeline Activity, SEA No. OCS-G 12318.	High Island Area, East Addition, South Extension, Blocks A-384, A-379, A-383, and A-382, and High Island Area, South Addition, Block A-573, Lease OCS-G 12318, 110 miles southeast of the nearest coastline in Texas.	8/20/90
Phillips Petroleum Company, one exploratory well, SEA No. N-3652.	High Island Area, East Addition, South Extension, Block A-377, Lease OCS-G 11406, 110 miles southeast of the nearest coastline on Galveston Island, Texas.	7/18/90
Mobil Exploration & Producing Inc., structure removal operations, SEA No. ES/SR 90-03S.	West Cameron Area, Block 583, Lease OCS-G 5349, 60 miles southwest of Leeville, Louisiana.	7/23/90
Marathon Oil Company, structure removal operations, SEA No. ES/SR 90-04S.	West Delta Area, Block 86(N/2), Lease OCS-G 2934, 15 miles southwest of Plaquemines Parish, Louisiana.	8/06/90
CNG Producing Company, structure removal operations, SEA No. ES/SR 90-05S.	High Island Area, Block A-257, Lease OCS-G 7330, 80 miles south of Cameron Parish, Louisiana.	8/27/90
Chevron U.S.A. Inc., structure removal operations, SEA No. ES/SR 90-06S.	South Timbalier Area, Block 63, Lease OCS 0599, 24 miles south of Lafourche Parish, Louisiana.	8/20/90
Chevron U.S.A. Inc., structure removal operations, SEA No. ES/SR 90-07S.	South Timbalier Area, Block 37, Lease OCS-G 2625, 11 miles south of Lafourche Parish, Louisiana.	8/17/90
Elf Exploration Inc., structure removal operations, SEA No. ES/SR 90-08S.	East Cameron Area, Block 196, Lease OCS-G 5379, 60 miles south of Cameron Parish, Louisiana.	9/11/90
CNG Producing Company, structure removal operations, SEA No. ES/SR 90-09S.	West Cameron Area, Block 600, Lease OCS-G 5354, 120 miles south of Cameron Parish, Louisiana.	9/06/90
OXY USA Inc., structure removal operations, SEA No. ES/SR 90-036.	Brazos Area, South Addition, Block A-76, Lease OCS-G 1752, 39 miles southeast of Matagorda County, Texas.	8/14/90
Texaco USA, structure removal operations, SEA Nos. ES/SR 90-037 and 90-038.	Vermilion Area, Block 57, Lease OCS 0554, 14 miles south of Vermilion Parish, Louisiana; South Marsh Island Area, North Addition, Block 217, Lease OCS 0310, 10 miles south of Vermilion Parish, Louisiana.	5/25/90
Walter Oil & Gas Corporation, structure removal operations, SEA No. ES/SR 90-046.	Matagorda Island Area, Block 565, Lease OCS-G 4138, 11 miles southeast of Matagorda Island, Calhoun County, Texas.	6/28/90
Exxon Company, U.S.A., structure removal operations, SEA No. ES/SR 90-048.	Vermilion Area, South Addition, Block 372, Lease OCS-G 2576, 99 miles south of Vermilion Parish, Louisiana.	6/28/90
Conoco Inc., structure removal operations, SEA No. ES/SR 90-053.	East Cameron Area, Block 97, Lease OCS-G 3294, 25 miles south of Cameron Parish, Louisiana.	8/10/90
Conoco Inc., structure removal operations, SEA No. ES/SR 90-054.	West Cameron Area, Block 459, Lease OCS-G 3383, 87 miles south of Cameron Parish, Louisiana.	7/17/90
Apache Corporation, structure removal operations, SEA No. ES/SR 90-055.	Matagorda Island Area, Block 652, Lease OCS-G 4701, 28 miles south of Port O'Connor, Texas.	7/18/90
Mesa Operating Limited Partnership, structure removal operations, SEA No. ES/SR 90-056.	South Pelto Area, Block 18, Lease OCS-G 3589, 14 miles south of Terrebonne Parish, Louisiana.	8/13/90
Hall-Houston Oil Company, structure removal operations, SEA No. ES/SR 90-061.	Galveston Area, Block A-97, Lease OCS-G 7257, 56 miles southeast of Brazoria County, Texas.	8/03/90
Samedan Oil Corporation, structure removal operations, SEA No. ES/SR 90-062A.	East Cameron Area, Block 215, Lease OCS-G 3297, 64 miles south of Cameron Parish, Louisiana.	7/17/90
Samedan Oil Corporation, structure removal operations, SEA No. ES/SR 90-063R.	East Cameron Area, Block 215, Lease OCS-G 3297, 64 miles south of Cameron Parish, Louisiana.	7/12/90
BHP Petroleum (Americas) Inc., structure removal operations, SEA No. ES/SR 90-066.	Galveston Area, South Addition, Block A-131, Lease OCS-G 2342, 70 miles south of Galveston County, Texas.	8/27/90
Kerr-McGee Corporation, structure removal operations, SEA No. ES/SR 90-067.	Ship Shoal Area, Block 214, Lease OCS 0828, 60 miles southwest of Leeville, Louisiana.	7/12/90
Kerr-McGee Corporation, structure removal operations, SEA No. ES/SR 90-069.	East Cameron Area, Block 34, Lease OCS-G 2855, 6 miles south of Cameron Parish, Louisiana.	7/17/90
Exxon Company, U.S.A., structure removal operations, SEA No. ES/SR 90-070.	Grand Isle Area, Blocks 23, 22, 21; Leases OCS 034, OCS 031, and OCS-G 3597; 9 miles south of Lafourche Parish, Louisiana.	6/27/90
Texaco USA, structure removal operations, SEA No. ES/SR 90-073.	South Marsh Island Area, Block 218, Lease OCS 0310, 9 miles south of Vermilion Parish, Louisiana.	7/12/90
Amoco Production Company, structure removal operations, SEA No. ES/SR 90-074.	High Island Area, East Addition, South Extension, Block A-305, Lease OCS-G 7357, 93 miles southeast of Galveston Island, Galveston County, Texas.	7/03/90
Mobil Exploration & Producing U.S. Inc., structure removal operations, SEA Nos. ES/SR 90-075 and 076.	East Cameron Area, Block 64, Lease OCS 089, 24 miles south of Cameron Parish, Louisiana.	8/02/90
Mobil Exploration & Producing U.S. Inc., structure removal operations, SEA Nos. ES/SR 90-077 and 078.	West Cameron Area, Blocks 149 and 176, Leases 0253 and 0762, between 20 and 25 miles south of Cameron Parish, Louisiana.	7/17/90
Texaco USA, structure removal operations, SEA No. ES/SR 90-079.	Eugene Island Area, Block 26, Lease OCS-G 3147, 10 miles south of St. Mary Parish, Louisiana.	7/17/90
Gulfstar Operating Company, structure removal operations, SEA No. ES/SR 90-080.	Ship Shoal Area, Block 52, Lease OCS-G 5532, 12 miles south of Terrebonne Parish, Louisiana.	6/26/90
Diamond Shamrock Offshore Partners, Limited Partnership, structure removal operations, SEA No. 90-081.	West Cameron Area, Block 64, Lease OCS-G 4383, 8 miles south of Cameron Parish, Louisiana.	7/12/90
Mobil Exploration & Producing U.S. Inc., structure removal operations, SEA No. ES/SR 90-082.	Eugene Island Area, Block 129, Lease OCS 054, 20 miles south of St. Mary Parish, Louisiana.	8/06/90
Chevron U.S.A. Inc., structure removal operations, SEA Nos. ES/SR 90-083 and 90-084.	Ship Shoal Area, Blocks 97 and 107, Leases OCS-G 6737 and OCS 070, approximately 13 and 20 miles south of Terrebonne Parish, Louisiana.	8/03/90
AEDC (USA) Inc., structure removal operations, SEA No. ES/SR 90-086.	Ewing Bank Area, Block 991, Lease OCS-G 5816, 70 miles south of Terrebonne Parish, Louisiana.	7/23/90
Chevron U.S.A. Inc., structure removal operations, SEA Nos. ES/SR 90-090.	Vermilion Area, Block 75, Lease OCS-G 3978, 21 miles south of Vermilion Parish, Louisiana.	8/08/90
Amoco Production Company, structure removal operations, SEA No. ES/SR 90-091.	South Marsh Island Area, Block 38, Lease OCS-G 5456, 51 miles south of Iberia Parish, Louisiana.	7/27/90
Chevron U.S.A. Inc., structure removal operations, SEA Nos. ES/SR 90-092 and 90-093.	West Cameron Area, Block 41, Lease OCS-G 2531, 8 miles south of Cameron Parish, Louisiana.	9/06/90

Activity/Operator	Location	Date
Diamond Shamrock, structure removal operations, SEA No. ES/SR 90-095.	Main Pass Area, Block 117, Lease OCS-G 4912, 18 miles east of St. Bernard Parish, Louisiana.	8/14/90
Diamond Shamrock Offshore Partners Limited Partnership, structure removal operations, SEA No. ES/SR 90-096.	Main Pass Area, Block 114, Lease OCS-G 3418, 20 miles west of the Breton Islands and the Breton National Wildlife Refuge, offshore Louisiana.	8/21/90
Chevron U.S.A. Inc., structure removal operations, SEA No. ES/SR 90-097.	Brazos Area, Block A-16, Lease OCS-G 5174, 44 miles south of Brazoria County, Texas.	9/11/90
Phillips Petroleum Company, structure removal operations, SEA No. ES/SR 90-098.	High Island Area, East Addition, South Extension, Block A-298, Lease OCS-G 2405, 105 miles south of Jefferson County, Texas.	9/07/90
Union Pacific Resources, structure removal operations, SEA No. ES/SR 90-099.	Ship Shoal Area, Block 184, Lease OCS-G 5553, 34 miles south of Terrebonne Parish, Louisiana.	9/07/90

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123-2394, Telephone (504) 736-2519.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for and the development/production of oil and gas resources and structure removals on the Gulf of Mexico OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: October 29, 1990.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 90-26141 Filed 11-5-90; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 27, 1990. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register Criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by November 21, 1990.

Carol D. Shull,

Chief of Registration, National Register.

CONNECTICUT

Tolland County

Columbia Green Historic District, Along CT 87 at jct. with CT 66, Columbia, 90001759.

FLORIDA

Charlotte County

Big Mound Key—Boggess Ridge Archeological District, Address Restricted, Placida vicinity, 90001764.

Villa Bianca, 2330 Shore Dr., Punta Gorda, 90001760.

Pinellas County

Tarpon Springs Historic District, Roughly bounded by Read St., Hibiscus St., Orange St., Levis Ave., Lemon St. & Spring Bayou, Tarpon Srpongs, 90001762.

Volusia County

Spruce Creek Mound Complex, Address Restricted, Port Orange Vicinity, 90001761.

INDIANA

Allen County

Bash Building, 126 W. Columbia St., Fort Wayne, 90001787.

Randall Building, 616 & 618 S. Harrison St., Fort Wayne, 90001786.

Daviess County

Washington Commercial Historic District, Roughly bounded by Fourth, Hefron & Meridian Sts. & the Chessie System RR, Washington, 90001780.

Elkhart County

Coppes, Frank and Katharine, House, 302 E. Market St., Mappanee, 90001783.

Fountain County

Brady Street Historic District, Roughly bounded by S. Perry, E. Jackson, S. Council & E. Pike Sts., Attica, 90001785.

Old East Historic District, 400 block of E. Washington St. & the 400 & 500 blocks of E. Monroe St., Attica, 90001784.

Montgomery County

Darlington Covered Bridge, Co. Rds. 500N & 500E over Sugar Cr., Darling vicinity, 90001782.

Linden Depot, 202 M. James St., Linden, 90001781.

Parke County

Mansfield Roller Mill, (Grain Mills in Indiana MPS), Mansfield Rd. at Big Raccoon Ci., Mansfield, 90001788.

Vigo County

Highland Lawn Cemetery, 4520 Wabash Ave., Terre Haute, 90001790.

Washington County

Beck's Mill, (Grain Mills in Indiana MPS), Beck's Mill Rd. at Mill Cr., Salem, 90001789.

LOUISIANA

St. Landry Parish

Ray Homestead, 378 W. Bellevue St., Opelousas, 90001758.

NEBRASKA

Box Butte County

City of Alliance Central Park Fountain, Jct. of 10th St. & Miobrara Ave., Alliance, 90001772.

Deuel County

Sudman, Fred and Minnie Meyer, House, 490 Vincent Ave., Chappell, 90001770.

Douglas County

Columbian School, 3819 Jones St., Omaha, 90001769.

Lancaster County

Beattie, James A., House, 6706 Colby St., Lincoln, 90001773.

Madison County

Warrick, John Wesley and Grace Shafer, House, 4th St., Meadow Grove, 90001767.

Platte County

Monroe Congregational Church and New Hope Cemetary, Rt. 1, about 7.5 mi. NW of Monroe, E of Looking Glass Cr., Monroe vicinity, 90001768.

St. Michael's Catholic Church, Jct. of Third & Cedar Sts., Tarnov, 90001766.

Seward County

Jones, Harry T., House, 136 N. Columbia Ave., Seward, 90001771.

York County

York Public Library, 306 E. Seventh St., York, 90001765.

OHIO

Ashland County

Crumrine, John, Farm, 792 Co. Rd. 40, Nova vicinity, 90001778.

Crumrine, Michael, Farm, 871 Co. Rd. 40, Nova vicinity, 90001779.

Fulton County

Old US Post Office, 169 E. Church St., Marion, 90001777.

Summit County

O'Neil's Department Store, 226–250 S. Main St., Akron, 90001776

TENNESSEE

Shelby County

Fleming, John M., Home Place, 1545 S. Byhalia Rd., Collierville vicinity, 90001763.

WEST VIRGINIA

Cabell County

Ritter Park Historic Distict, Ritter Park, including northern boundary streets, Huntington, 90001774.

Wyoming County

Itmann Company Store and Office, WV 10/16, Itmann, 90001775.

[FR Doc. 90–26244 Filed 11–5–90; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31643 Sub-No. 1 [1]]

Angelina and Neches River Railroad Company—Acquisition Exemption—St. Louis Southwestern Railway Company Lufkin Yard

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, under 49 U.S.C. 10505, retroactively exempts from the requirements of 49 U.S.C. 11343, *et seq.*, the purchase by Angelina and Neches River Railroad Company (A&NR) from St. Louis Southwestern Railway company (SSW), and its parent Southern Pacific Transportation Company (SPT), of 1.49 miles of track, and an accompanying easement, between Cotton Belt milepost 635.64 at or near Abney Street and Cotton Belt milepost 637.13, in Lufkin, Angelina County, TX. The exemption is granted subject to standard labor protective conditions.

DATES: This exemption will become effective upon completion of the Commission's environmental review and a further decision. Petitions for reconsideration must be filed by December 3, 1990.

ADDRESSES: Send pleadings referring to Finance Docket No. 31643 (Sub-No. 1) to: Office of the Secretary, Case Control Branch, Att'n: Finance Docket No. 31643 (Sub-No. 1), Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicants' representatives:

Gary A. Laakso, St. Louis Southwestern Railway Company, and Southern Pacific Transportation Company, One Market Plaza, San Francisco, CA 94105.

Peter A. Greene, Angelina and Neches River Railroad Company, Thompson, Hine and Flory, 1920 N Street, NW., suite 700, Washington, DC 20036–1601.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired: (202) 275–1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD service (202) ge 275–1721.]

Decided: October 29, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Emmett, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–26223 Filed 11–5–90; 8:45 am]

BILLING CODE 7035–01–M

[1] In the decision granting this exemption, the Commission in Finance Docket No. 31643 (formerly No. 40315), also granted a complaint filed by United Transportation Union against defendants Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, and Angelina and Neches River Railroad Company.

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/

PWBA/VETS), Office of Management and Budget, room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration.

Study of Youth Employment Competency Programs in JTPA (Job Training Partnership Act).

Questionnaire	Affected public	Respondents	Frequency	Average time per response
SDA Questionn.	SDA Director	300	One-time	45 min.
Preemploy/Wrk Maturity	YEC Trng. Provider	300	One-time	15 min.
Basic Skills	YEC Trng. Provider	300	One-time	15 min.
Job Skill	YEC Trng. Provider	300	One-time	15 min.

450 total hours.

Evaluation of Service Delivery Area (SDA) programs which provide youth employment competency (YEC) training to determine quality/consistency of YEC programs; to determine extent of differences in YEC systems reflected in needs of local economies/populations; and to determine how SDAs manage said YEC systems.

Bureau of Labor Statistics.

Cognitive and Psychological Laboratory Research.

One time only.

Individuals or households.

1,000 respondents; 1,000 total hours; 60 minutes per response; 1 form.

The proposed laboratory research will improve the quality of data collection by examining the psychological and cognitive aspects of methods and procedures such as: questionnaire construction, survey technology and interview processes.

The planned research and development activities will be conducted during FY1991 through FY1993 with the goal of improving data quality through improved procedures.

Revision

Bureau of Labor Statistics, Laboratory Research on the CPS, BLS 1220-0114.

Study	Affected public	Respondents	Frequency	Avg. time
Dependent Interviewing	Individuals	300	Twice	60 min.
Delayed Recall	Individuals	300	Once	45 min.
Coverage Improvement	Individuals	100	Once	10 min.
Control Card	Individuals	300	Once	10 min.
CATI Effects	Individuals	300	Once	30 min.
Questionnaire Development	Individuals	100	Once	60 min.

1400 total respondents, 1150 total hours (rounded figure).

The proposed research will be conducted using volunteer participants to determine whether or not the CPS questions are still relevant, are properly understood, and are answered without difficulty, bias, or unacceptable levels of error. The studies are designed to enhance the quality of the CPS labor force data, which are widely used within and outside the government.

Extension

Mine Safety Health Administration.

Fire Protection—Escape and Evacuation (30 CFR 77.1101).

1219-0051.

On occasion.

Businesses or other for-profit; Small businesses or organizations: 473 recordkeepers; 1,634 total burden hours; 2.6088 average hours per response.

Requires mine operators to establish and keep current a specific escape and evacuation plan to be following in the event of a fire. The plan is used to instruct employees in the proper method of exiting work areas when fire occurs.

Employment and Training Administration.

Annual Plans for State Employment Service Activities.

1205-0209; no forms.

Annually.

State or local government.

54 respondents; 4,860 burden hours; no forms.

Regulations under 20 CFR 652 implement Public Law 97-300 amendments to the Wagner-Peyser Act. Information collection requirements pertain to those sections of the Act which require States to submit plans concerning operations and expenditures prescribed by the Secretary of Labor.

Signed at Washington, DC this 31st day of October, 1990.

Theresa M. O'Malley,

Acting Clearance Officer.

[FR Doc. 90-26230 Filed 11-5-90; 8:45 am]

BILLING CODE 4519-23-M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period October 1990.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,740; Friendship Foundry, Inc., Friendship, NY

TA-W-24,644; The Lion Knitting Mill Co., Cleveland, OH

TA-W-24,754; Maas & Waldstein Co., Newark, NJ

TA-W-24,773; CNG Development Co., Pittsburgh, PA

TA-W-24,734; Crane Defense Systems, St. Louis, MO

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-24,742; GTE Sylvania, Salem, MA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,771; Whitehall Laboratories, American Home Products, Elkhart, IN

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,848; General Motors SPO, North Brunswick, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,752; Land & Marine Rental Co., San Antonio, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,783; N.I. (Norris) Industries Roverbank Army Ammunition Depot, Riverbank, CA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,787; Sherwood Medical Co., Waterbury, CT

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,777; Evanite Fiber Corp., Corvallis, OR

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,788; Slawson Exploration Co., Inc., Amarillo, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-24,758; MLC Co., Inc., Midland, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-24,785; Red Eagle Resources Corp., Oklahoma City, OK

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

Affirmative Determinations

TA-W-24,730; B & P Cedar Products, Pe Ell, WA

A certification was issued covering all workers separated on or after July 26, 1989 and before August 31, 1990.

TA-W-24,779; Gear Drilling Co., Headquartered in Denver, CO & Operating at Various Locations in the Following States: TA-W-24,779A; CO TA-W-24,779B; NE

A certification was issued covering all workers separated on or after August 17, 1989.

I hereby certify that the aforementioned determinations were issued during the month of October 1990. Copies of these determinations are available for inspection in room C4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: October 29, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-26226 Filed 11-5-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-24,649]

Package Machinery Co., Reed Division, Stafford Springs, CT; Negative Determination Regarding Application for Reconsideration

By an application dated October 10, 1990, counsel for Local #220 of the International Union of Electrical, Radio and Machine Workers requested administrative reconsideration, of the subject petition for trade adjustment assistance.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Counsel states, among other things, that the subject firm suffered from foreign competition, pre-tax operating losses and decreased orders in the period relevant to the petition.

Workers at Stafford Springs produce plastic injection molding machines.

Operating losses and decreased orders are not a sufficient basis for a worker certification. In order for a worker group to become certified eligible to apply for trade adjustment assistance it must meet all three of the Group Eligibility Requirements of the Trade Act—a significant decrease in employment, an absolute decrease in sales or production and an increase in imports "contributing importantly" to worker separations and declines in sales or production. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers.

The Department's denial was based on the fact that the "contributed importantly" test was not met. The Department's survey of Package Machinery's major customers accounting for a significant proportion of its sales decline showed that none of the respondents which reduced their purchases from the subject firm reported increased purchases of imported plastic injection molding machines during the applicable period.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 26th day of October 1990.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Services, UIS.

[FR Doc. 90–26627 Filed 11–5–90; 8:45 am]

BILLING CODE 4510–30–M

TDC Supply, Inc., TA–W–24,301 San Angelo, TX, TA–W–24,301A Kermit, TX, TA–W–24,301B Big Lake, TX, TA–W–24,301C Andrews, TX, TA–W–24,301D Odessa, TX, TA–W–24,302, Tucker Drilling Co., Inc., San Angelo, TX; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligiblity to Apply for Worker Adjustment Assistance on June 8, 1990, applicable to all workers of Tucker Drilling Company, Inc., and its affiliate TDC Supply, Inc., both of San Angelo, Texas. The notice was published in the **Federal Register** on July 26, 1990 (55 FR 26035). An amended certification was issued on October 15, 1990 to include TDC Supply's other locations in Texas.

New data from the company was submitted showing worker separations at TDC Supply beyond the November 17, 1990 termination date. Accordingly, the certification is amended by deleting the November 17, 1990 termination date for workers of TDC Supply.

The amended notice applicable to TA–W–24,301 and TA–W–24,302 is hereby issued as follows:

All workers of TDC Supply, Inc., San Angelo, Texas; Big Lake, Texas; Kermit, Texas; Andrews, Texas and Odessa, Texas and all workers of the Tucker Drilling Company, Inc., San Angelo, Texas who became totally or partially separated from employment on or after March 30, 1989 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 26th day of October 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90–26225 Filed 11–5–90; 8:45 am]

BILLING CODE 4510–30–M

Federal-State Unemployment Compensation Program; Certifications

On October 31, 1990, the Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 *et seq.*, thereby enabling employers to make contributions to State unemployment funds to obtain certain credits for their liability for the Federal unemployment tax. By letter of the same date the certifications were transmitted to the Secretary of the Treasury. The letter and the certifications are printed below.

Dated: October 31, 1990.

Roberts T. Jones,

Assistant Secretary of Labor.

The Honorable Nicholas F. Brady
Secretary of the Treasury, Washington, DC 20220

Dear Nick: Transmitted herewith are an original and one copy of the certifications of the States and their unemployment compensation laws for the 12-month period ending October 31, 1990. One is required with respect to normal Federal unemployment tax credit by Section 3304 of the Internal Revenue Code of 1986, and the other is required with respect to additional tax credit by Section 3303 of the Code.

The certification pursuant to Section 3304 lists all 53 jurisdictions, except New Jersey. As was the case last year, New Jersey is omitted from both certifications because of issues arising under the requirements of Section 3304(a) of the Internal Revenue Code of 1986. An agreement has been reached with the State of New Jersey, and, as the State fulfills its obligations under this agreement, I will forward to you the certifications with respect to New Jersey as appropriate. The certification pursuant to Section 3303 also omits Puerto Rico because the unemployment compensation law of this jurisdiction contains no experience rating provisions and permits no reduced rates of contributions.

Please disregard my October 19 letter to you on this matter which I now hereby withdraw.

With my warmest regards,

Sincerely,

Elizabeth Dole.

Enclosures

Certification of State Unemployment Compensation Laws to the Secretary of the Treasury Pursuant to Section 3303(b)(1) of the Internal Revenue Code of 1986

In accordance with the provisions of paragraph (1) of section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named States, which heretofore have been certified pursuant to paragraph (3) of section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 1990.

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Florida
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Maine
Oregon
Pennsylvania
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum additional credit allowable under section 3302(b) of the Code.

Signed at Washington, DC, on October 31, 1990.

Elizabeth Dole,

Secretary of Labor.

Certification of States to the Secretary of the Treasury Pursuant to Section 3304 of the Internal Revenue Code of 1986

In accordance with the provisions of section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named States to the Secretary of the Treasury for the 12-month period ending on October 31, 1990, in regard to the unemployment compensation laws of those States which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
District of Columbia
Florida
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Louisiana
Maine
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum normal credit allowable under section 3302(a) of the Code.

Signed at Washington, DC, on October 31, 1990.

Elizabeth Dole,

Secretary of Labor.

[FR Doc. 90–26229 Filed 11–5–90; 8:45 am]

BILLING CODE 4510–30–M

Federal-State Unemployment Compensation Program; Extended Benefits; New Extended Benefit Period in the State of Puerto Rico

This notice announces the beginning of a new Extended Benefit Period in Puerto Rico, effective on September 30, 1990, and remaining in effect for at least 13 weeks after that date.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. Under the Extended Benefit Program, individuals who have exhausted their rights to regular unemployment benefits (UI) under permanent State (and Federal) unemployment compensation laws may be eligible, during an extended benefit period, to receive up to 13 weeks of extended unemployment benefits, at the same weekly rate of benefits as previously received under the State law. The Federal-State Extended Unemployment Compensation Act is implemented by State unemployment compensation laws and by part 615 of title 20 of the Code of Federal Regulations (20 CFR part 615).

Each State unemployment compensation law provides that there is a State "on" indicator (triggering on an Extended Benefit Period) for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment in the State equaled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator in the State. A benefit period will be in effect for a minimum of 13 weeks, and will end the third week after there is an "off" indicator.

Determination of an "on" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State, for the 13-week period ending on September 15, 1990, equals or exceeds 5 percent and is 20 percent higher than the corresponding 13 week period in the prior two years, so that for that week there was an "on" indicator in the State.

Therefore, a new Extended Benefit Period commenced in the State with the week beginning on September 30, 1990. This period will continue for no less than 13 weeks, and until three weeks after a week in which there is an "off" indicator in the State.

Information for Claimants

The duration of extended benefits payable in the Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins. 20 CFR 615.13(c)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State employment compensation law to regular benefits during the Extended Benefit Period. 20 CFR 615.13(c))(2).

Persons who believe they may be entitled to extended benefits in the State named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, DC on October 26, 1990.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 90-26224 Filed 11-5-90; 8:45 am]

BILLING CODE 4510-30-M

Commission on Achieving Necessary Skills; Open Meeting

AGENCY: Employment and Training Administration, Labor.

SUMMARY: The Secretary's Commission on Achieving Necessary Skills (SCANS) was established in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) on February 20, 1990. The SCANS is to advise the Secretary on National competency guidelines for the skills required of high school graduates for entry into employment. The Commission has the practical task of specifying and quantifying levels of skills' attainment to perform different types of jobs adequately.

TIME AND PLACE: The third meeting will be held Thursday, November 29, 1990 from 9 a.m. until 4:30 p.m. at the Capitol Hill Hyatt Regency 400 New Jersey Avenue NW., Yorktown Conference Room (Ballroom level), Washington, DC 20001.

AGENDA: The agenda for the meeting follows:

1. Report from the SCANS Technology Committee
2. Report from the SCANS Dissemination Committee
3. Report on Skills Definition

Lunch by Task Force groupings

4. Relation to Other Business/Education Efforts
   a. American Business Conference
   b. US Chamber of Commerce
   c. National Alliance of Business
   d. National Governors' Association
5. General Discussion
6. Public Comment
8. Adjourn

PUBLIC PARTICIPATION: The meeting will be open to the public. Time will be set aside for public comments. Seating will be available for the public on a first-come, first-serve basis. Five seats will be reserved for the media. Handicapped individuals wishing to attend should contact the Commission to obtain appropriate accommodations.

Individuals or organizations wishing to submit written statements should send 10 copies to Dr. Arnold Packer, Executive Director SCANS—room C-2318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Papers received on or before November 10, 1990 will be included in the record of the meeting.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Packer, Exec. Dir., SCANS—room C-2318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523-4840.

Signed At Washington, DC this 1st day of November, 1990.

Elizabeth Dole,

Secretary of Labor.

[FR Doc. 90-26228 Filed 11-5-90; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (90-92)]

Fiscal Year 1990 Report of Closed Meeting Activities of Advisory Committees

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of reports.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, the NASA advisory committees that held closed or partially closed meetings in Fiscal Year 1990, consistent with the policy of 5 U.S.C. 552b(c), have prepared reports on activities of these meetings. Copies of the reports have been filed and are available for public

inspection at the Library of Congress, Federal Advisory Committee Desk, Washington, DC 20540; and the National Aeronautics and Space Administration, Headquarters Information Center, Washington, DC 20546. The names of the committees are: NASA Advisory Council (NAC), NAC Aeronautics Advisory Committee, NAC Aerospace Medicine Advisory Committee, NAC Commercial Programs Advisory Committee, NAC Space Science and Applications Advisory Committee, and the NASA Wage Committee.

FOR FURTHER INFORMATION CONTACT: Kathryn Newman, Code NA, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-2880).

Dated: November 1, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-26241 Filed 11-5-90; 8:45 am]

BILLING CODE 7510-01-M

[Notice 90-93]

NASA Advisory Council (NAC), Aerospace Medicine Advisory Committee (AMAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aerospace Medicine Advisory Committee.

DATES: November 19, 1990, 8:30 a.m. to 5 p.m., and November 20, 1990, 8:30 a.m. to 3:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, room 226A, 600 Independence Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. J. Richard Keefe, Code SBF, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1525).

SUPPLEMENTARY INFORMATION: The Aerospace Medicine Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range planning of aerospace medicine research. The committee will meet to discuss the establishment of toxicological standards, Space Station Freedom status and radiation standards, Life Science and Life Support Branch status, and OSSA status and future planning. The Committee is chaired by Dr. Harry C. Holloway and is composed of 24 members. The meeting will be closed on Tuesday, November 20, 1990, from 2:30 p.m. to 3:30 p.m., to allow for a discussion on qualifications of individuals being considered for membership to the Aerospace Medicine Advisory Committee. Such a discussion would invade the privacy of the individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting will be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 40 people including members of the Committee). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the participants.

TYPE OF MEETING: Open—except for a closed session, as noted in the agenda below.

Agenda:

Monday, November 19

8:30 a.m.—Introductory Remarks.
9 a.m.—Establishing Toxicological Standards and Spacecraft Maximum Allowable Concentration (SMAC's) Values.
1 p.m.—Space Station Freedom Status and Plans.
2 p.m.—Space Station Freedom Radiation Standards.
3:30 p.m.—AMAC Working Groups and Subcommittee Reports.
5 p.m.—Adjourn.

Tuesday, November 20

8:30 a.m.—Life Science Division Status.
9:30 a.m.—Office of Space Science and Applications (OSSA) Program Status.
10:45 a.m.—Life Support Branch Status.
11:15 a.m.—Strategic Planning/OSSA Future Planning.
1 p.m.—Extended Duration Orbiter Medical Program Status.
2:30 p.m.—Closed Session.
3:30 p.m.—Adjourn.

Dated: November 1, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-26242 Filed 11-5-90; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

SUPPLEMENTARY INFORMATION: On September 24, 1990, the National Science Foundation published a notice in the **Federal Register** of permit applications received. Permits were issued to William R. Fraser and W. Scott Drieschman on October 30, 1990.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 90-26155 Filed 11-5-90; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 30-29019, License No. 49-26808-01, EA 90-104]

High Mountain Inspection Services, Inc., Mills, WY; Order Imposing Civil Monetary Penalty

I

High Mountain Inspection Service, Inc. (HMIS or Licensee) is the holder of Materials License No. 49-26808-01 issued by the Nuclear Regulatory Commission (NRC or Commission) on May 25, 1988, and scheduled to expire on January 31, 1991. The license authorizes the Licensee to use NRC-licensed radioactive materials to conduct industrial radiography activities.

II

An inspection of the Licensee's activities was conducted April 18, 1990, and May 9-10, 1990. The results of this inspection indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated July 23, 1990. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations. The Licensee responded to the Notice in a Reply and Answer both dated August 22, 1990. In its

response, the Licensee admitted the three violations that formed the basis for the proposed civil penalty, denied one violation among those that were not assessed a civil penalty, and requested that the NRC withdraw the proposed civil penalty.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the appendix to this Order, that the violations occurred as stated and that the penalty proposed for the violations designated in the notice should be imposed by Order.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *It is hereby ordered, that:*

The Licensee pay a civil penalty in the amount of $2,500 within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, attn: Document Control Desk, Washington, DC 20555.

V

The Licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, attn: Document Control Desk, Washington, DC 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same addresses and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issue to be considered at the hearing shall be:

Whether, on the basis of the violations which the Licensee has admitted, this Order should be sustained

Dated at Rockville, Maryland this 29th day of October 1990.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

Appendix—Evaluations and Conclusions

On July 23, 1990, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for violation identified during an NRC inspection. High Mountain Inspection Service, Inc. (HMIS) responded to the Notice on August 22, 1990. The NRC's evaluation and conclusion regarding the licensee's response follow:

Restatement of Violations Assessed a Civil Penalty

A. 10 CFR 34.43(b) states, in part, that the licensee shall ensure that a survey with a calibrated and operable radiation survey instrument is made after each exposure to determine that the sealed source has been returned to its shielded position.

Contrary to the above, on April 18, 1990, at a refinery in Casper, Wyoming, the lciensee's radiographer, after each of two exposures, did not perform a survey with a radiation survey instrument to determine that the sealed source had been returned to its shielded position.

B. 10 CFR 34.44 states, in part, that whenever a radiographer's assistant uses radiographic exposure devices, he shall be under the personal supervision of a radiographer, and that the personal supervision shall include, in part, the radiographer's watching the assistant's performance of the radiographic operations.

Contrary to the above, on April 18, 1990, a radiographer's assistant used a radiographic exposure device and he was not under the personal supervision of a radiographer. The radiographer, although present at the facility at which the radiography was being conducted, did not watch the assistant perform the exposures.

C. 10 CFR 34.33(a) states, in part, that pocket dosimeters used by radiographers or radiographer's assistant shall be recharged at the start of each shift.

Contrary to the above, on April 18, 1990, pocket dosimeters used by a radiographer and a radiographer's assistant while performing radiography at a refinery in Casper, Wyoming, had not been recharged before the start of the shift.

This is a Severity Level III problem (Supplement IV). Cumulative Civil Penalty—$2,500 (assessed equally among the violations).

Restatement of Violations Not Assessed a Civil Penalty

A. 10 CFR 34.31(c) states, in part, that records of training required by 10 CFR 34.31 for radiographers and radiographer's assistants, including copies of written tests and dates of oral tests and field examinations, shall be maintained for 3 years.

Contrary to the above, as of May 10, 1990, records of training required by 10 CFR 34.31 for radiographer's assistants, including copies of written tests and dates of oral tests and field examinations, were not being maintained for three individuals who were trained and worked as radiographer's assistants from November 1989 to March 1990.

This is a Severity Level V violation (Supplement VI).

B. 10 CFR 71.5(a) requires, in part, that each licensee who transports licensed material outside of the confines of its plant or other place of use, or who delivers licensed material to a carrier for transport comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR parts 170–189.

1. 49 CFR 172.203(d) requires, in part, that the description on shipping papers for a shipment of radioactive material must include the category of label applied to each package in the shipment and the transport index assigned to each package in the shipment bearing RADIOACTIVE YELLOW–II labels.

Contrary to the above, on four occasions from August 1989 to April 1990, the licensee delivered licensed material to a carrier for transport with descriptions on shipping papers that did not include the category of label applied to the package or the transport index assigned to each package that was labeled RADIOACTIVE YELLOW–II.

This is a Severity Level V violation (Supplement V).

2. 49 CFR 172.403(g) requires, in part, that the contents, activity, and the transport index be entered in the blank spaces on the RADIOACTIVE label.

Contrary to the above, on April 18, 1990, an overpack that was used to transport a radiographic exposure device containing licensed material was labeled with a RADIOACTIVE YELLOW–II label that did not record the contents, the activity, or the transportation index in the label's blank spaces.

This is a Severity Level V violation (Supplement V).

Summary of Licensee's Response to Notice of Violation

The Licensee admitted the three violations that formed the basis for the civil penalty, denied one violation (Violation II.A) among those not assessed a civil penalty and discussed its view of the significance of one other violation (Violation I.C).

1. In response to Violation I.C, the Licensee admitted that the pocket dosimeters were not recharged; however, the licensee contended that recording the initial readings on the pocket dosimeters had the effect of recharging them. The Licensee argued that what happened in no way affected the operation of the pocket dosimeters or radiation safety.

2. In response to Violation II.A, the Licensee denied the violation, stating that two of the three individuals identified were used as helpers and not assistant radiographers. The Licensee also stated that the other individual identified was an assistant radiographer and asserted that his training documentation was complete because the inspection report only noted that he lacked the required hours of on-the-job training.

NRC Evaluation of Licensee's Response to Notice of Violation

1. In regard to Violation I.C, the NRC does not dispute the fact that not recharging the dosimeters did not affect the operation of the dosimeters. However, the fact remains that the dosimeters were not recharged before the start of the shift as required by NRC regulations which reflects a lack of attention to matters involving personal safety. Furthermore, the pocket dosimeters in question had readings of 130 mR and 140 mR when radiographic operations began. Since the maximum reading possible on these devices is 200 mR, there was not sufficient leeway before the dosimeter could have gone off scale and erroneously caused concern about possible overexposures. The NRC staff concludes that the violation occurred as stated and that the explanation offered by the licensee does not warrant reducing the severity level of the violation.

2. In regard to Violation II.A, the NRC notes, as stated in the inspection report dated May 21, 1990, that the individuals who were identified as not having complete training records had worked as radiographer's assistants. This was identified by reviewing the licensee's site survey records, which indicated that the three individuals worked as radiographer's assistants, and by discussing the matter with the Assistant Radiation Safety Officer (ARSO). The ARSO stated that these individuals had taken the required examinations before they worked as radiographer's assistants, but records of these exams had been destroyed.

Concerning the third individual's lack of training records, the notation in the inspection report as to this individual not having the required number of hours of on-the-job training as a assistant radiographer before being designated as a radiographer in no way indicates that the individual's training records were complete. To the contrary, the training documents that were supplied by the licensee did not indicate that the individual was administered a practical examination.

The NRC staff concludes that the violation occurred as stated

Summary of Licensee's Request for Mitigation

The Licensee admitted the violations that formed the basis for the proposed civil penalty. HMIS requested full mitigation of the civil penalty based on contentions that: (1) Violations I.A and I.B were the independent actions of and individual; (2) Violation I.C. should not have been classified at Severity Level III; (3) the NRC has not shown the HMIS failed to conduct a satisfactory radiation safety program, therefore, imposition of a fine cannot cause an improvement in HMIS' program; (4) HMIS took prompt and effective disciplinary action against the individual responsible for two of the violations and did so in a manner that did not shift the problem to other radiography licensees; (5) the NRC did not consider enforcement action against the individuals pursuant to section V.E. of the Enforcement Policy; and (6) the NRC has not provided an effective regulatory mechanism for controlling violations solely caused by the independent actions of radiography personnel. Moreover, HMIS argued that the violations were committed by individuals who had been properly trained, equipped and instructed by HMIS management and that those individuals' actions were contrary to proper instructions and established procedures provided by HMIS. In short, the licensee argued that absent an indication that it failed in its responsibilities to adequately administer its radiation safety program or failed to take action against employees who violated safety requirements, it should not be fined for violations beyond its reasonable control.

NRC Evaluation of Licensee's Request for Mitigation

The NRC's "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR part 2, appendix C (1990), (Enforcement Policy) states in Section V.A. that licensees are not ordinarily cited for violations resulting from matters, not within their control. However, the Policy states explicitly that licensees are held responsible for the acts of their employees and that the policy should not be construed to excuse personnel errors. In *Atlantic Research Corp.*, CLI–80–7, 11 NRC 413 (1980) the Commission explicitly rejected a position virtually identical to the Licensee's:

> The effect of the [decision below] is that where no specific conduct by a licensee contributed to the commission of a violation, * * * the licensee is necessarily free from any culpability and the imposition of any civil penalties. Under that approach, the responsibility for infractions of license provisions or Commission regulations would be divided between the licensee's management and its employees. We believe that this would be an unsound enforcement policy because management's freedom from culpability could be interpreted as freedom from responsibility * * *. We find that such a division of responsibility between a licensee and its employees has no place in the NRC regulatory regime which is designed to implement our obligation to provide adequate protection to the health and safety of the public in the commercial nuclear field. Id. at 421–2 (citation omitted).

The Commission has left no doubt that licensees are responsible for violations of NRC regulatory requirements, even if committed by licensees' employees or other agents. Accordingly, mitigation of the civil penalty on the basis proposed by HMIS is not warranted.

In response to the licensee's six specific arguments set out above, NRC notes:

1. As described above, the Enforcement Policy provides that licensees are responsible for the acts of their employees. As stated in section V.B of the Enforcement Policy, published at 10 CFR part 2, appendix C, while management involvement in a violation may lead to an increase in a civil penalty, lack of that involvement may not be used to mitigate a civil penalty, because allowance of mitigation could encourage lack of management involvement in licensed activities and decrease protection of the public health and safety. The Commission has previously considered and resolved the question of whether responsibility for violations should be divided between licensees' management and its

employees. *Atlantic Research Corporation*, 11 NRC 413 (1980). More recently, in publishing the proposed rule on Willful Misconduct by Unlicensed Persons on April 3, 1990, 55 Fed Reg 12374, the Commission concluded that a strong enforcement policy dictates that a licensee be held accountable for violations committed by its employees in the conduct of licensed activities.

2. The NRC consider the failure to conduct a radiation survey following a radiographic exposure a significant violation of radiation safety requirements; these surveys are fundamental to ensuring the health and safety of both radiographic personnel and others in the vicinity of such work. Failure to survey has resulted in most radiographer overexposures, some of which have been serious. The NRC believes that it is well within the bounds of the Enforcement Policy in classifying this violation, as well as the associated violations, at Severity Level III as a indication of a significant regulatory concern.

3. The NRC does not have to show that the licensee failed to conduct a satisfactory radiation safety program in order to propose a civil penalty for what NRC considers to be a specific significant violation of its radiation safety requirements. If the licensee did not have at least a satisfactory program, an order would have been considered to suspend licensed activities.

4. HMIS disciplined the individual responsible for the failure to survey by reducing his pay and requiring requalification. The fact that HMIS did discipline the responsible individual was taken into consideration by NRC in determining the proposed civil penalty amount. However, HMIS's corrective action in total was no more prompt and extensive than NRC would expect of any licensee following a violation of this nature. The responsibility to develop an effective mechanism for precluding violations of this nature in the future rests with the licensee, not with the NRC, as the licensee suggests. It is the licensee who is in a position to retain, counsel, or discipline including but not limited to docking pay, demotion, suspension, or dismissal, and then providing a candid reference about an employee.

5. A decision by the NRC whether to take enforcement action against a particular individual who has violated NRC requirements while engaging in licensed activities is independent of any action taken against the licensee. Section V.E. of the Enforcement Policy states that enforcement actions against individuals are significant personnel actions which will be closely controlled and judiciously applied. It also provides that most transgressions of individuals at the level of Severity Level III, IV or V violations will be handled by citing only the facility licensee. NRC has not conducted an investigation to determine whether the assistant radiographer's acts were deliberate violations justifying and order removing his from licensed activity. In that regard, it is noted that the licensee has not removed the individual from licensed activities since it has confidence in him to comply in the future. Again, even if an order had been issued, a civil penalty would have been assessed against the licensee. The purpose of the penalty is to emphasize to the licensee's management and employees as well as other licensees that licensees are responsible for the safe use of radiactive material in their possession. A licensee cannot delegate that responsibility to its employees.

6. The NRC is concerned about the above issue and is developing regulations that would provide for taking action against individuals in cases of willfull violations of NRC requirements. However, any such revision of the Commission's regulations would not relieve licensees of their responsibility for the acts of their employees. Nor would the changes preclude the NRC from taking action against the licensee for the acts of its employees. Any alleged deficiency in the Commission's enforcement regime does not excuse a specific violation committed during licensed activities. Any alleged deficiencies, even if real, do not change the facts that: (a) a violation occurred, and (b) as described above, licensees are responsible for all violations occurring during licensed operations authorized by their licenses.

NRC Conclusion

The NRC concludes that the Licensee has not provided a sufficient basis for mitigation of the proposed civil penalty. Further, the Licensee admits the violations which formed the basis for the proposed civil penalty. The NRC concludes that a civil penalty of $2,500 should be imposed by order.

[FR Doc. 90-26199 Filed 11-5-90; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 40-08027-MLA; ASLBP No. 91-623-01-MLA]

Sequoyah Fuels Corp.; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, a single member of the Atomic Safety and Licensing Board Panel is hereby designated to rule on petitions for leave to intervene and/or requests for hearing and, if necessary, to serve as the presiding officer to conduct the hearing in the event that an informal adjudicatory hearing is ordered in the following Materials Licensing proceeding.

Sequoyah Fuels Corporation

Source Material License No. SUB-1010

The Presiding Officer is being designated pursuant to 10 CFR 2.1207 of the Commission's Regulations, "Informal Hearing Procedures for Materials Licensing Adjudications," published in the **Federal Register**, 54 FR 8269 (1989). This action is in response to requests for an adjudicatory hearing submitted by the Native Americans for a Clean Environment (NACE) and Earth Concerns of Oklahoma (ECO).

The requestors desire a hearing on the license renewal application of the Sequoyah Fuels Corporation submitted on August 29, 1990.

The presiding officer in this proceeding is Administrative Judge James P. Gleason.

Following consultation with the Panel Chairman, pursuant to the provisions of 10 CFR § 2.722, the Presiding Officer has appointed Administrative Judge Glenn O. Bright to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents and other materials shall be filed with Judge Gleason and Judge Bright in accordance with 10 CFR § 2.701. Their addresses are:

Administrative Judge James P. Gleason, Presiding Officer 513 Gilmoure Drive, Silver Spring, Maryland 20901

Administrative Judge Glenn O. Bright, Special Assistant, 6009 McKinley Street, Bethesda, Maryland 20827.

Issued at Bethesda, Maryland, this 30th day of October 1990.

B. Paul Cotter, Jr.,
Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 90-26198 Filed 11-5-90; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF NATIONAL DRUG CONTROL POLICY

President's Drug Advisory Council; Meeting

AGENCY: President's Drug Advisory Council; Office of National Drug Control Policy.

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. appendix), of the fourth meeting of the President's Drug Advisory Council.

DATE AND TIME: November 16, 1990 from 10 a.m. to 4 p.m. (with a 90-minute lunch break at 12 noon).

PLACE: Room 180, Old Executive Office Building (OEOB), Washington DC 20500.

FOR FURTHER INFORMATION CONTACT: Mr. Nelson Cooney, Staff Assistant, President's Drug Advisory Council, Executive Office of the President, Washington, DC 20503, (202) 466–3100.

SUPPLEMENTARY INFORMATION: The President's Drug Advisory Council was created by Executive Order 12696 of November 13, 1989 (54 FR 47507, November 15, 1989), with the general purpose of advising the President and the Director of the Office of National Drug Control Policy on the development, dissemination, explanation and promotion of national drug policy.

At the November 16 meeting, the Council will receive a follow-up report from the National Coalition Subcommittee, regarding the National Leadership Forum which it will conduct on November 9 and 10, 1990. The Council will also receive reports from the Volunteer Organizations Subcommittee, the Demand Reduction Subcommittee, and the Drug-Free Workplace Subcommittee, regarding their recent accomplishments and issues of concern to each Subcommittee.

Members of the public interested in attending the meeting should contact the President's Drug Advisory Council, (202) 466–3100, at least one day prior to the meeting. Callers should be prepared to give their birthdate and social security number over the telephone, in order to facilitate clearance into the Old Executive Office Building. Due to unforeseen scheduling difficulties, notice of this meeting has been delayed.

John Walters

Chief of Staff, Office of National Drug Control Policy.

[FR Doc. 90–26131 Filed 10–31–90; 4:24 pm]

BILLING CODE 3180–02–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for hearing; Cincinnati Stock Exchange, Inc.

October 31, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Allstate Municipal Inc. Opportunity Trust III
Common Stock, $0.01 Par Value (File No. 7–6365)
American Adjustment Rate Term Trust, Inc.
Common Stock, $0.01 Par Value (File No. 7–6366)
Banner Aerospace, Inc.
Common Stock, $1.00 Par Value (File No. 7–6367)
Barclays Bank Plc
American Depository Shares (File No. 7–6368)
BJ Services, Co.
Common Stock, $.10 Par Value (File No. 7–6369)
Cadence Design Systems, Inc.
Common Stock, $0.01 par Value (File No. 7–6370)
Compania de Telefonos de Chile SA
American Depository Shares (File No. 7–6371)
Countrywide Credit Industries, Inc.
Dep. Conv. Pfd. Stock, $0.05 Par Value (File No. 7–6372)
C&S/Sovran Corp.
Common Stock, $1.00 Par Value (File No. 7–6373)
Diagnostek, Inc.
Common Stock, $0.01 Par Value (File No. 7–6374)
Dreyfus Invest. Grade Municipal Fund, Inc.
Common Stock, $0.001 Par Value (File No. 7–6375)
Emerging Mexico Fund, Inc.
Common Stock, $0.10 Par Value (File No. 7–6376)
European Warrant Fund, Inc.
Common Stock, $0.001 Par Value (File No. 7–6377)
Genenteck, Inc.
Common Stock, $0.02 Par Value (File No. 7–6378)
Germany Fund, Inc.
Common Stock, $0.001 Par Value (File No. 7–6379)
Live Entertainment, Inc.
Common Stock, $0.01 par Value (File No. 7–6380)
Offshore Pipelines, Inc.
Common Stock, $0.01 par Value (File No. 7–6381)
Old Republic International Corp.
Common Stock, $1.00 Par Value (File No. 7–6382)
Policy Management Systems Corp.
Common Stock, $0.01 Par Value (File No. 7–6383)
Transcontinental Realty Investors, Inc.
Common Stock, No Par Value (File No. 7–6384)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 23, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–26200 Filed 11–5–90; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

October 31, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 2(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following security:

Rhone-Poulence S.A.
Contingent Value Rights (File No. 7–6385)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 23, 1990, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC

20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-26202 Filed 11-5-90; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

October 31, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to Section 2(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

C&S/Sovran Corporation
Common Stock, $1 Par Value (File No. 7-6386)
Crawford & Company
Class A Common Stock, $1 Par Value (File No. 7-6387)
Germany Fund, Inc.
Common Stock, $0.001 Par Value (File No. 7-6388)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 23, 1990, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-26201 Filed 11-5-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-17830; File No. 812-7585]

Alliance Variable Products Series Fund, Inc.

October 30, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Alliance Variable Products Series Fund, Inc. ("Fund").

RELEVANT 1940 ACT SECTIONS: Exemptions requested under section 6(c) from sections 9(1), 13(a), 15(a), and 15(b) of the Act and rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicant seeks an order to permit its shares to be sold to and held by variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies.

FILING DATE: The application was filed on September 4, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by 5:30 p.m., on November 26, 1990. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Alliance Variable Products Series Fund, Inc., c/o Edmund P. Bergan, Jr., Esq., Vice President and Assistant General Counsel, Alliance Capital Management Corporation, 1345 Avenue of the Americas, New York, New York 10105.

FOR FURTHER INFORMATION CONTACT: Joyce Pickholz, Staff Attorney at (202) 272-3046 or Heidi Stam, Assistant Chief, at (202) 272-2060 (Office of Insurance Products and Legal Compliance, Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the Public Reference Branch in person or the SEC's commercial copier which may be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. The Fund is a Maryland corporation registered under the Act as an open-end management investment company of the series type. It is anticipated that the assets allocated to each investment sub-account of separate accounts under the variable life insurance and variable annuity contracts of participating insurance companies will be invested in shares of a corresponding portfolio of the Fund. The Fund currently has eight portfolios. It is anticipated that portflios may be added or deleted from time to time. To date, no shares in the Fund's portfolios have been sold. It is expected that each of the participating insurance companies will invest in the Fund pursuant to a participation agreement that will require compliance with any order obtained pursuant to the application.

2. The participating insurance companies and their separate accounts will rely, as appropriate, on Rules 6e-2 or 6e-3(T) under the Act, or Rule 6e-3 when adopted, in connection with the issuance of variable life insurance. Rule 6e-2(b)(15) provides a separate account, organized as a unit investment trust, partial exemptions from sections 9(a), 13(a), 15(a), and 15(b) of the Act to the extent those sections require "pass-through" voting with respect to an underlying fund's shares. Rule 6e-2(b)(15) provides these exemptions only where all of the assets of the unit investment trust are shares of management investment companies "which offer their shares exclusively to variable life insurance separate accounts of the life insurer or of any affiliated life insurance company". The conditions of Rule 6e-2(b)(15) relate to the type of insurance products being supported by an underlying fund ("mixed funding") and to the entities offering the insurance products supported by the underlying fund ("shared funding"). Rule 6e-3(T)(b)(15) permits mixed funding of variable annuity contracts and variable life insurance contracts. It restricts shared funding, however, in that it limits its exemptive relief to situations where a unit investment trust of a life insurer may invest in only registered management investment companies which offer their shares solely to

separate accounts of affiliated insurers. Applicant, therefore, requests exemptive relief from sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder, to the extent necessary to permit mixed funding and shared funding with separate accounts of unaffiliated partipating insurance companies offering variable annuity contracts and variable life insurance contracts, whether single premium, scheduled premium or flexible premium.

3. Applicant submits that granting the requested relief will benefit all variable contractowners by eliminating a significant portion of the costs of establishing and administering separate funds. In addition, Applicant states that there is no policy reason to prohbit the separate accounts of unaffiliated insurance comanies from investing in the same fund. According to Applicant, the unit trust mechanism has been employed to accumulate shares of mutual funds that have not been affiliated with the depositor or sponsor and each participating insurance company will have the legal obligation of satisfying all requirements applicable to it under state insurance law and under the federal securities laws. Applicant also submits that mixed and shared funding is in the public interest and consistent with the protection of investors, because it should result in an increased amount of assets available for investment by the Fund, which may in turn benefit contractowners by promoting economies of scale. Furthermore, permitting the Fund to be used by separate accounts of unaffiliated as well as affiliated insurance companies may enable a greater number of companies to enter the field and thus stimulate broader industry competition. Broader competition could result in more product variation and lower charges.

4. Section 9(a)(3) of the Act provides that it is unlawful for any company to serve as investment adviser to or principal underwriter for any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in sections 9(a) (1) or (2). Rule 6e–2(b)(15) (i) and (ii) and rule 6e–3(T)(b)(15) (i) and (ii) provide exemptions from section 9(a)(3) under certain circumstances, subject to the limitations dicussed above on mixed and shared funding. These exemptions limit the applicability of the eligibility restrictions to affiliated individuals or companies that directly participate in the management of the underlying management company.

The Applicant believes that the partial exemption from the requirement that funds monitor the affiliates of participating insurance companies for compliance with section 9(a) is included because the Commission determined that it is necessary to exclude disqualified persons only from the management or administration of the investment company. Accordingly, Applicant asserts that there would be no regulatory purpose in applying the full monitoring requirements if other separate accounts established by the participating insurance companies, whether affiliated or unaffiliated with one another, invested in the Fund. Applicant further states that it is not expected that affiliated persons of the unaffiliated participating insurance companies will serve on the Board of Directors of the Fund or that unaffiliated participating insurance companies will otherwise participate in the management or administration of the Fund. Also, applying the requirements of section 9(a) as a result of investment by separate accounts merely because such accounts supported variable annuity contracts or flexible premium variable life insurance contracts, or because the participating insurance company involved was unaffiliated with one or more of the other participating insurance companies, would be unjustified and would not serve any regulatory purpose.

5. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) provide partial exemptions from sections 13(a), 15(a), and 15(b) of the Act to the extent that those sections have been deemed to require "pass-through" voting with respect to management investment company shares held by a separate account, to permit the insurance company to disregard the voting instructions of its contractowners in certain circumstances. Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(B) provide that the insurance company may disregard contractowners' voting instructions if the contractowners initiate any change in such company's investment policies, principal underwriter, or any investment adviser (provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraph (b)(5)(ii) and (b)(7)(ii) (B) and (C) of the Rules).

6. Applicant submits that shared funding by unaffiliated insurance companies does not present any issues that do not already exist where a single insurance company is licensed to do business in several or all states. In this regard, Applicant states that a particular state insurance regulatory body could require action that is inconsistent with the requirements of other states in which the insurance company offers its contracts. Accordingly, Applicant submits that the fact that different insurers may be domiciled in different states does not create a significantly different or enlarged problem.

7. Applicant states that the right under rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) of the insurance company to disregard the voting instructions of its contractowners does not raise any issues different from those raised by the authority of state insurance administrators over separate accounts and that affiliation does not eliminate the potential, if any exists, for divergent judgments as to the advisability or legality of a change in investment policies, principal underwriter, or investment adviser initiated by contractowners. Applicant states that the potential for disagreement is limited by the requirements in rules 6e–2 and 6e–3(T) that the insurance company's disregard of voting instructions be reasonable and based on specific good faith determinations.

8. According to the application, pass-through voting privileges will be extended to contractowners to the extent required by applicable federal securities laws, regulations or interpretations. Fund shares held in any investment sub-account of the separate accounts of participating insurance companies attributable to contracts and for which voting instructions are not actually received will be voted for, against, or withheld from voting in the same proportion as shares for which voting instructions are received. Also, Fund shares not attributable to variable contracts will be voted in the same proportion as the shares for which voting instructions are received. With respect to the tax consequences, if any, of mixed and shared funding, Applicant states that the Internal Revenue Code of 1986 (the "Code") has in effect, applied the prohibition of I.R.S. Ruling 81–225 against the use of public funds as an investment medium to all variable contracts. The Code provides, in section 817(h), for the promulgation of regulations governing the standards for portfolio diversifications for both variable annuity contracts and variable life insurance contracts. If those standards are not met, the variable annuity contracts or variable life insurance contracts do not receive tax benefitted status. The section, in effect, precludes investment of variable life insurance separate accounts in publicly available funds. Section 817(h) of the Code generally permits mixed and

shared funding. The language of paragraph (4) of section 817(h) does not distinguish between variable annuity separate accounts and variable life insurance separate accounts or between affiliated and unaffiliated insurance companies.

Applicant's Conditions

Applicant agrees that the requested order may be expressly conditioned upon the following:

1. A majority of the Board of Directors of the Fund shall consist of persons who are not "interested persons" of the Fund, as defined by section 2(a)(19) of the Act and the rules thereunder, and as modified by any applicable order of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any director, then the operation of this condition shall be suspended: (i) For a period of 45 days, if the vacancy or vacancies may be filled by the Board of Directors; (ii) for a period of 60 days, if a vote of shareholders is required to fill the vacancy or vacancies; or (iii) for such longer period as the Commission may prescribe by order upon application.

2. The Board will monitor the Fund for the existence of any material irreconcilable conflict between the interests of the contractowners participating in all separate accounts investing in the Fund. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, or any similar action by insurance, tax or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any portfolio are being managed; (e) a difference in voting instructions given by variable annuity contractowners and variable life insurance contractowners; or (f) a decision by a participating insurance company to disregard the voting instructions of contractowners.

3. Participating insurance companies and the investment adviser to the Fund will report any potential or existing conflicts to the Board of Directors of the Fund. Participating insurance companies and the investment adviser will be responsible for assisting the Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for it to consider any issues raised. This includes, but is not limited to, an obligation by each participating insurance company to inform the Board whenever contractowner voting instructions are disregarded. The responsibility to report such information and conflicts and to assist the Board will be a contractual obligation of all participating insurance companies under their agreements governing participation in the Fund and such agreements shall provide that such responsibilities will be carried out with a view only to the interests of the contractowners.

4. If it is determined by a majority of the Board of the Fund, or a majority of the disinterested directors, that a material irreconcilable conflict exists, the relevant participating insurance companies shall, at their own expense and to the extent reasonably practicable (as determined by a majority of the disinterested directors), take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict, up to and including: (a) Withdrawing the assets allocable to some or all of the separate accounts from the Fund or any portfolio and reinvesting such assets in a different investment medium, including another portfolio of the Fund, or submitting the question of whether such segregation should be implemented to a vote of all affected contractowners and, as appropriate, segregating the assets of any particular group (*i.e*, annuity contractowners or life insurance contractowners of one or more participating insurance companies) that votes in favor of such segregation, or offering to the affected contractowners the option of making such a change; and (b) establishing a new registered management investment company or management separate account. If a material irreconcilable conflict arises because of an insurance company's decision to disregard contractowner voting instructions and that decision represents a minority position or would preclude a majority vote, the insurance company may be required, at the Fund's election, to withdraw its separate account's investment in the Fund and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action shall be a contractual obligation of all participating insurance companies under their agreements governing participation in the Fund and these responsibilities will be carried out with a view only to the interests of the contractowners.

For the purposes of this condition (4), a majority of the disinterested members of the Board shall determine whether or not any proposed action adequately remedies any irreconcilable material conflict, but in no event will the Fund or the investment adviser be required to establish a new funding medium for any variable contract. No participating insurance company will be required by this condition (4) to establish a new funding medium for any variable annuity or variable life insurance contract if an offer to do so has been declined by vote of a majority of contractowners materially adversely affected by the material irreconcilable conflict.

5. The Board's determination of the existence of a material irreconcilable conflict and its implications shall be promptly made known in writing to all participating insurance companies.

6. Participating insurance companies will provide pass-through voting privileges to all variable contractowners so long as the Commission continues to interpret the Act as requiring pass-through voting privileges for variable contractowners. Participating insurance companies shall be responsible for assuring that each of their separate accounts participating in the Fund calculates voting privileges in a manner consistent with other participating insurance companies. Accordingly, any Fund shares that are not attributable to variable contracts, or for which voting instructions are not received, will be voted in proportion to instructions received from contractowners. The obligation to calculate voting privileges in a manner consistent with all other separate accounts investing in the Fund shall be a contractual obligation of all participating insurance companies under their agreements governing participation in the Fund.

7. The Fund will notify all participating insurance companies that prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. The Fund shall disclose in its prospectus that (a) Its shares are offered to insurance company separate accounts that fund both annuity and life insurance contracts of affiliated and unaffiliated participating insurance companies, (b) due to differences of tax treatment or other considerations, the interests of various contractowners participating in the Fund might at some time be in conflict, and (c) the Board of Directors will monitor for any material conflicts and determine what action, if any, should be taken.

8. All reports received by the Board of Directors of the Fund of potential or existing conflicts, and all Board action with respect to determining the existence of a conflict, notifying

participating insurance companies of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

9. If and to the extent rule 6e–2 and rule 6e–3(T) are amended, or rule 6e–3 is adopted, to provide exemptive relief from any provision of the Act or the rules thereunder with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested in this application, then the Fund and/or the participating insurance companies, as appropriate, shall take such steps as may be necessary to comply with rule 6e–2 or rule 6e–3(T), as amended, and rule 6e–3, as adopted, to the extent such rules are applicable.

10. The Fund will comply with all provisions of the Act requiring voting by shareholders (which, for these purposes, shall be the persons having a voting interest in the shares of the Fund), and in particular the Fund will either provide for annual meetings (except insofar as the Commission may interpret section 16 not to require such meetings) or comply with section 16(c) of the Act (although the Fund is not a trust of the type specified in section 16(c)) as well as with Section 16(a) and, if and when applicable, 16(b). Further, the Fund will act in accordance with the Commission's interpretation of the requirements of section 16(a) with respect to periodic elections of directors and with whatever rules the Commission may promulgate with respect thereto.

11. The participating insurance companies and/or the investment adviser shall at least annually submit to the Board of Directors of the Fund such reports, materials or data as the Board may reasonably request so that it may fully carry out the obligations imposed upon it by the conditions contained in this application, and said reports, materials and data shall be submitted more frequently if deemed appropriate by such Board. The obligations of the participating insurance companies to provide these reports, materials and data to the Board of Directors of the Fund when it so reasonably requests, shall be a contractual obligation of all participating insurance companies under their agreements governing participation in the Fund.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–26204 Filed 11–5–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17833; International Series No. 184 (812–6719)]

Permanent Trustee Company Limited; Application

October, 31, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Permanent Trustee Company Limited ("Permanent Trustee").

RELEVANT 1940 ACT SECTION: Exemption requested under section 6(c) from the provisions of section 17(f).

SUMMARY OF APPLICATION: Permanent Trustee seeks an order exempting it, and each registered management investment company for which it serves as custodian or subcustodian, from the provisions of section 17(f) of the Act. If granted, the order would permit Permanent Trustee to maintain the securities and other assets of such registered investment companies in its custody, notwithstanding the fact that it is not an "eligible foreign custodian," as defined in rule 17f–5 under the Act.

FILING DATES: The application was filed on May 15, 1987 and amended on December 22, 1989 and September 25, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SECs Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 26, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicants, c/o Richard T. Prins, Esq., Skadden, Arps, Slate, Meagher & Flom, 919 Third Avenue, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: James E. Banks, Staff Attorney (202) 272–7820, or Max Berueffy, Branch Chief (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 738–1400).

Applicant's Representations

1. Permanent Trustee is an Australian statutory trustee company incorporated under the laws of New South Wales. For over 100 years, Permanent Trustee has served as executor and trustee for inter vivos trusts and estates. Since 1954, the company has also served as executor, trustee, agent and attorney for leading banks, insurance companies, industrial companies, and financial intermediaries located throughout Australia and overseas. The company provides estate management, financial management, and tax services for personal and corporate trusts. These duties include acting as trustee for public debt issues by corporations, trustee and custodian for publicly-offered unit trusts, investment manager for its clients' portfolios, and trustee and custodian for issuers of secondary mortgage market and other securitized products.

2. Permanent Trustee is publicly-owned and its shares have been continuously listed on the Sydney Stock Exchange since 1987. It has 650 shareholders who own 12 million shares of the company's stock, a market capitalization of $56.2 million, and approximately $33.5 million in shareholders' equity.[1] The company has declared a profit and paid a dividend every year since 1896.

3. Fourteen statutory trust companies operate in Australia. Combined, they have approximately $7 billion in personal assets and $70 billion in corporate assets under administration. Permanent Trustee is the second largest statutory trustee company. It currently administers approximately 1,200 personal trusts, estates and settlements with a total value of $435 million and 469 corporate trusts with a total value of $26.9 billion.

4. Statutory trustee companies in Australia are extensively regulated by

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[1] All references herein are to United States dollars. The rate of exchange is $0.7760 = $A1.00 for September 29, 1989. Wall St. J., October 2, 1989, at C–15, col. 4 (Eastern ed.).

the individual states in which they are authorized to do business in order to ensure their soundness, reliability and independence. Permanent Trustee is regulated by the governments of New South Wales and Victoria. In New South Wales, the Trustee Companies Act of 1964 (the "NSW Act") and the Trustee Act of 1925 (the "Trustee Act") empower Permanent Trustee to act as trustee. These statutes restrict its borrowing activities, and limit concentration of control in the company by restricting the acquisition of more than 10% of its shares by any person or group. The Trustee Act limits investment of trust assets to certain approved securities. The NSW Act also limits Permanent Trustee's liabilities to three times its net tangible assets.

5. The NSW Act provides that the company's managing director and officers are individually and collectively liable for damages arising from mismanagement of assets in its care, and the government of New South Wales requires Permanent Trustee to maintain at least $19.4 million of professional indemnity insurance. Permanent Trustee actually carries professional indemnity coverage of $27.2 million, directors and officers coverage of $7.8 million, and employer fidelity coverage of $1.6 million. Its total insurance coverage of $36.6 million thus exceeds the required minimum. To date, the company has never paid any claims out of these coverages. Moreover, this insurance coverage significantly exceeds the maximum $2.5 million bonding coverage required for registered investment companies by rule 17f–5 under the Act.

6. The Trustee Companies Act of 1984 (the "Victorian Act") regulates Permanent Trustee's operations in Victoria in a similar fashion except that it requires Permanent Trustee to maintain a debt-to-equity ratio of no greater than 1:1, in contrast to the 3:1 imposed by the NSW Act. In addition, the Victorian Act requires the company to maintain a separate reserve fund greater than the value of the trust estates in Victoria that it manages.

7. Permanent Trustee is also subject to The Companies Code in New South Wales and, as a listed company on the Sydney Stock Exchange, it must comply with the listing requirements of the Australian Associated Stock Exchanges. The company is thus subject to various audit, financial reporting and capitalization requirements. The company has a continuous internal audit program which samples practices in all of its operating departments. The internal auditor reports to the company's Audit Committee which includes three external directors, the company's four most senior executives, and the managing director.

8. Permanent Trustee represents that, by virtue of the regulatory scheme in Australia, statutory trust companies play a major role in the financial marketplace. They are the usual trustees and custodians for Australian public unit trusts, a term covering a variety of investment vehicles that are functionally equivalent to open end investment companies in the United States. In addition, trust companies, together with other qualifying financial institutions such as life insurance companies and banks, are the only entities permitted by statute to serve as trustee on behalf of holders of public debt issues. Permanent Trustee has served as a trustee and custodian for public unit trusts and corporate debt since 1954. Its 1989 Annual Report indicates that it had $26.9 billion in corporate assets under administration, including $13.3 billion in public unit trust assets.

9. Applicant states that it has extensive and longstanding expertise in providing custodial services and has received a number of indications of interest from United States money managers and registered open-end investment companies in having it serve as their Australian custodian.

Applicant's Legal Analysis

1. Section 17(f) of the Act provides, in pertinent part, that every registered investment company shall place its portfolio securities and similar investments in the care of specified types of custodial agents, all of which are located in the United States. Rule 17f–5 under the Act permits registered management investment companies to maintain in the care of an "eligible foreign custodian" their foreign securities, cash and cash equivalents in amounts reasonably necessary to effect the company's foreign securities transactions, provided certain provisions of the Rule are satisfied. An "eligible foreign custodian" is defined, in pertinent part, as "(a) banking institution or trust company, incorporated or organized under the laws of a country other than the United States, that is regulated as such by that country's government or an agency thereof and that has shareholders' equity in excess of $200,000,000 (U.S. or the equivalent of U.S. $) * * * ."

2. Permanent Trustee is not an "eligible foreign custodian" because it does not have shareholders' equity in excess of $200 million. It has only $33.5 million in shareholders' equity. Accordingly, it requests an order exempting it from section 17(f) of the Act so that it may act as a custodian for securities of United States registered investment companies.

3. In support of the exemptive relief requested, Permanent Trustee states that it and the registered investment companies which is may serve as custodian or subcustodian would meet all requirements of rule 17f–5 except the shareholders' equity requirement. The company believes that its entry into the ranks of foreign custodians for United States investment companies would benefit the public by providing better services at lower costs than are presently available.

4. Permanent Trustee submits that the requested relief is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act. Neither it nor any of the other statutory trustee companies in Australia can satisfy the $200 million shareholders' equity requirement in rule 17f–5. Consequently, registered investment companies must rely on Australian banks to provide custodial services, rather than statutory trustee companies, which are more experienced custodians.

5. In addition, Applicant submits that the $200 million shareholders' equity requirement, as applied to Permanent Trustee, is inappropriate and unnecessary for the protection of investors. The company is required by law to maintain a debt-to-equity ratio of no greater than 1:1. In fact, Permanent Trustee currently has a debt-to-equity ratio of 0.12:1, whereas banks in the United States typically operate with significantly higher leverage. Applicant claims that, although the $200 million equity requirement may be appropriate for entities having a more risk-prone capital base, such a requirement is unnecessary as a minimum threshold for a company devoted solely to the trustee and custodianship business.

6. Moreover, Permanent Trustee's total insurance coverage of $36.4 million is an adequate safeguard against any loss of investment company assets. The fact that the company has never paid any claims out of its insurance coverage is additional evidence of its custodial competence.

7. Permanent Trustee also believes that the $200 million shareholders' equity requirement is not necessary to meet the purposes of section 17(f) or justified by any of the problems associated with foreign custodianship of investment company assets.

Applicant's Conditions

If the requested order is granted, Permanent Trustee and, to the extent applicable, any registered investment company seeking to rely on the order will agree to the following conditions to the order:

1. Any and all investment companies registered under the Act for which Permanent Trustee serves as custodian or subcustodian must comply with all of the requirements of section 17(f) of the Act and paragraphs (a) and (b) of rule 17f-5 thereunder, except to the extent such Rule requires Permanent Trustee to maintain shareholders' equity in excess of $200 million;

2. Permanent Trustee's debt-to-equity ratio will not exceed the amount permitted under current regulations governing the operation of statutory trustee companies in Australia;

3. Permanent Trustee will not expand its operations beyond those permitted by its Articles of Incorporation and current Australian law governing the operation of statutory trustee companies in Australia;

4. Permanent Trustee will maintain professional indemnity insurance, in lieu thereof, a bank guarantee in an amount equal to $25 million or such greater amount as specified by the Government of New South Wales for the protection of persons entrusting assets with Permanent Trustee;

5. Permanent Trustee will maintain at least its current levels of insurance available to cover claims arising out of or in connection with the performance of its responsibilities as a foreign custodian; and,

6. Permanent Trustee consents to the jurisdiction of any and all United States federal and state courts and, prior to the issuance of the requested order, will appoint the Commission as its United States agent to accept service of process in any suit, action or proceeding brought in any such court in connection with Permanent Trustee's activities as custodian or subcustodian of securities or other assets of investment companies registered under the Act. Such appointment and consent to jurisdiction will be in the form attached as Exhibit C to this application.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-26205 Filed 11-5-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17832; International Series Release No. 183; 812-7554]

Security Pacific National Bank; Application

October 31, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANT: Security Pacific National Bank ("Security Pacific").

RELEVANT SECTIONS OF THE ACT: Exemption requested under section 6(c) from the provisions of section 17(f).

SUMMARY OF APPLICATION: Applicant seeks an order to permit it to maintain foreign securities and other assets of U.S. registered investment companies in the custody of (i) Certain foreign subsidiaries of Security Pacific Corporation, and (ii) Frankfurter Kassenverein A.G. ("Frankfurter Kassenverein"), a West German securities depository.

FILING DATE: The Application was filed on July 5, 1990 and amended on October 16, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 27, 1990, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington DC 20549. Applicant, c/o Richard E. Nathan, Dechert Price & Rhoads, 477 Madison Avenue, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Staff Attorney, at (202) 272-3035, or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete Application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 738-1400).

Applicant's Representations

1. Applicant seeks an order to exempt it, any investment company registered under the Act (other than an investment company registered under section 7(d) of the Act) (a "U.S. Investment Company") for which Applicant acts as custodian, and any custodian for a U.S. Investment Company for which Applicant acts as subcustodian to the extent necessary to permit them to maintain Foreign Securities (as defined in the Application), cash and cash equivalents (collectively, "Foreign Assets") with the following foreign custodians: (a) Banco Security Pacific (located in Chile), (b) Security Pacific Bank S.A. (located in Switzerland), (c) Security Pacific Bank (France) SNC (located in France), and (d) Security Pacific Bank Canada (located in Canada) (collectively, the "Foreign Subsidiaries").

2. Each Foreign Subsidiary is a majority-owned direct or indirect subsidiary of Security Pacific Corporation, a bank holding company organized and existing under the laws of Delaware. Each Foreign Subsidiary is also a banking institution or trust company incorporated under the laws of a country other than the United States and regulated as such by that country's government or an agency thereof.

3. Applicant also seek relief so that Frankfurter Kassenverein may maintain custody of Foreign Assets of U.S. Investment Companies. Frankfurter Kassenverein is one of the seven depositories which collectively operate the central system for handling of securities or equivalent book-entries in West Germany, and each of those depositories services a particular stock exchange. Frankfurter Kassenverein services the Frankfurt Stock Exchange, the largest and most active exchange in West Germany. Consequently, Frankfurter Kassenverein handles the most significant percentage of all securities transactions within West Germany.

4. In connection with Applicant's proposed foreign custody arrangements, Applicant will generally provide custodial services for a U.S. Investment Company (or a custodian of the securities of a U.S. Investment Company for which Applicant acts as subcustodian) in accordance with a "Custodian Agreement" between Applicant and each U.S. Investment Company (or custodian) customer. Applicant will deposit Foreign Assets with a Foreign Subsidiary only in accordance with the three-party

"Subcustodian Agreement" defined below.

5. Neither Applicant nor the Foreign Subsidiaries will be responsible for losses resulting from the political and other risks implicit in the investment decision made by the U.S. Investment Company (or the custodian for the U.S. Investment Company) to acquire Foreign Assets and to maintain those Foreign Assets in a country other than the United States. These risks include, but are not necessarily limited to, exchange control restrictions, seizure, expropriation, nationalization, insurrection, revolution, acts of war, or terrorism. Nor will Applicant or the Foreign Subsidiaries be liable for losses resulting from matters beyond their control (despite their exercise of the appropriate standard of care), such as loss due to Acts of God, nuclear incident and the like.

Applicant's Legal Analysis

1. Section 17(f) of the Act provides, among other things, that every registered management company shall place and maintain its securities in similar investments in the custody of a bank, a member of a national securities exchange or such registered company. "Bank" is defined in section 2(a)(5) of the Act to include, in essence, only banks that are regulated by the U.S. Government or by a U.S. State. As such, none of the Foreign Subsidiaries come within the definition of "bank" under the Act.

2. Rule 17f–5 under the Act permits any domestic management investment company that is registered under the Act to place and maintain its foreign securities and certain other assets in the custody of an "eligible foreign custodian" (as defined in the Rule). Among other things, Rule 17f–5 prescribes certain conditions that must be included in the foreign custody contract, and also describes four types of entities that meet the definition of "eligible foreign custodian." In essence, an "eligible foreign custodian" means (a) a foreign banking institution or trust company regulated as such by its home country that has shareholders' equity in excess of $200,000,000, (b) a foreign entity that has shareholders' equity in excess of $100,000,000 and is a majority-owned direct or indirect subsidiary of a "qualified U.S. bank" or bank-holding company, (c) a foreign securities depository or clearing agency which operate the central system for handling of securities or equivalent book-entries in its home country, or (d) a foreign securities depository or clearing agency which operates a transnational system for the central handling of securities or equivalent book-entries.

3. Applicant represents that except for the minimum shareholders' equity requirements, each of the Foreign Subsidiaries would come within the definition of an "eligible foreign custodian." Applicant further represents that each Foreign Subsidiary is experienced, capable, and well-qualified to provide custodial and sub-custodial services to U.S. Investment Companies, and that under the foreign custody arrangement proposed, the protection of investors would not be diminished.

4. Frankfurter Kassenverein, as one of several depositories in West Germany, does not come within the definition of "eligible foreign custodian" because it does not meet Rule 17f–5's requirement that a securities depository or clearing agency operate either "the central system for handling of securities or equivalent book-entries" (emphasis added), or "a transnational system for the central handling of securities or equivalent book-entries." Applicant states that there is no single central depository in West Germany. Applicant represents, however, that virtually all domestic and foreign banks engaged in the securities business in Frankfurt are members of Frankfurter Kassenverein. Applicant further represents that if Frankfurter Kassenverein could not be employed as a foreign subcustodian, the German Foreign Assets of its customers would have to be kept in a bank vault and transferred by physical delivery, increasing custody costs and the risks of loss. Applicant therefore argues that an exemption to allow custody by Frankfurter Kassenverein is entirely appropriate and consistent with the purposes served by Rule 17f–5.

5. The Commission has issued several orders allowing United States investment companies to place and maintain their foreign securities and other assets in the custody of Frankfurter Kassenverein. *E.g.*, Barclays Bank PLC, Investment Company Act Release No. 17268 (Dec. 19, 1989).

Applicant's Conditions

1. Security Pacific will deposit Foreign Assets with a Foreign Subsidiary only in accordance with a three-party Subcustodian Agreement among (a) a U.S. Investment Company for which Security Pacific acts as custodian, or a custodian of the securities of a U.S. Investment Company for which Security Pacific acts as subcustodian, (b) Security Pacific, and (c) a Foreign Subsidiary. The Subcustodian Agreement will remain in effect at all times during which the Foreign Subsidiary fails to meet the shareholders' equity requirements of Rule 17f–5. Pursuant to the terms of each Subcustodian Agreement, Security Pacific will delegate to a Foreign Subsidiary such of its custodial duties and obligations as will be necessary to permit the Foreign Subsidiary to hold the Foreign Assets in the foreign country in which it is located. The Subcustodian Agreement will set forth the extent of Security Pacific's guarantee, under which Security Pacific will be liable for any loss, damage, cost, expense, liability, or claim arising out of or in connection with the performance by the Foreign Subsidiary of its responsibilities under the Subcustodian Agreement to the same extent as if Security Pacific had been required to provide custody services under such agreement.

2. The custody arrangements with the Foreign Subsidiaries will comply with Rule 17f–5 in all respects except for the minimum shareholders' equity requirements of that Rule.

3. Any foreign custody arrangement with Frankfurter Kassenverein will comply with Rule 17f–5 in all respects other than the requirement that a foreign securities depository or clearing agency operate either (a) the central system for handling of securities or equivalent book-entries in that country or (b) a transnational system for the central handling of securities or equivalent book-entries.

4. Applicant currently satisfies, and will continue to satisfy, the minimum shareholders' equity requirement set out in Rule 17f–5(c)(2)(ii) under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–26206 Filed 11–5–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–17831/File No. 812–7583]

October 30, 1990.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: The Manufacturers Life Insurance Company of America (the "Company"), Separate Account Four of The Manufacturers Life Insurance Company of America ("Separate Account Four") and ManEquity, Inc., (the "Underwriter").

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to section 11(a) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order pursuant to section 11 of the 1940 Act approving an exchange offer in which certain flexible premium variable life insurance policies or variable universal life insurance policies (the "VUL Policies") issued by the Company through Separate Account Four may be exchanged for certain scheduled premium variable life insurance policies (the "Scheduled Policies") issued by the Company through Separate Account One.

FILING DATE: The application was filed on August 27, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m. on November 26, 1990. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicants with the request either personally or by mail, and also send a copy to the Secretary of the SEC along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, The Manufacturers Life Insurance Company of America, One Meridian Place, Philadephia, PA 19102. ManEquity, Inc., 200 Bloor Street East, Toronto, Ontario, Canada M4W 1E5.

FOR FURTHER INFORMATION CONTACT: Thomas E. Bisset, Staff Attorney, at (202) 272–2058 or Heidi Stam, Assistant Chief, Office of Insurance Products and Legal Compliance, at (202) 272–2060 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicants Representations

1. The Company is a stock life insurance company organized under the laws of Pennsylvania on April 11, 1977. It is an indirectly wholly-owned subsidiary of the Manufacturers Life Insurance Company ("Manufacturers Life"), a mutual life insurance company based in Toronto, Canada.

2. Separate Account Four was established by the Company on March 17, 1987, to support the VUL Policies. Separate Account Four is registered with the Commission as a unit investment trust (File No. 811–5130). Separate Account Four currently has six sub-accounts, each of which invests in the shares of one of the six portfolios that presently comprise the Manulife Series Fund, Inc. (the "Series Fund").

(3) The Underwriter, a registered broker-dealer and member of the National Association of Securities Dealers, Inc. ("NASD"), is an indirect wholly-owned subsidiary of Manufacturers Life. The Underwriter acts as the principal underwriter for variable life insurance and variable annuity contracts issued by the Company, including the VUL Policies.

4. The Company, through another of its separate accounts ("Separate Account One"), has outstanding certain scheduled premium variable life insurance policies (the "Scheduled Policies") that rely upon the exemptive and other relief granted in Rule 6e–2 under the the 1940 Act. The Scheduled Policies are registered under the Securities Act of 1933 (the "1933 Act") on Form S–6 (File No. 2–88607). There are 259 Scheduled Policies outstanding. Although new sales of the Scheduled Policies have been terminated, payments continue to be received on Policies sold prior to 1988. The underlying funding vehicle for the Scheduled Policies is the Series Fund. Only one death benefit option is offered under the Scheduled Policies. The death benefit is never less than the face amount of the Policy, assuming all premiums have been paid when due and there is no outstanding Policy loan. The face amount of a Scheduled Policy may not be increased nor decreased.

5. Sales charges under the Scheduled Policies are deducted from premium payments a rate of 30% in the first year, 10% in years two through four and 7.5% thereafter. Total sales charges may not exceed 9% of the sum of the basic premiums to be paid during a period equal to the lesser of 20 years or the anticipated life expectancy of the life insured based upon the 1958 Commissioners Standard Ordinary Mortality Tables ("1958 CSO Tables"). Policies of less than $25,000 are charged $1.50 per $1000 of face amount each year because of the greater mortality risks involved in such policies. A mortality and expense risk charge at an annual rate of 0.10% is deducted daily from the assets of Separate Account One. Policy loans are permitted under the Scheduled Policies in amounts up to 90% of cash value. Loans incur charges at a rate of .30% annually (0.20% loan administration fee plus .10% mortality and expense risk charge).

6. The VUL Policies are registered under the 1933 Act (File No. 33–13774) and rely upon the exemptive and other relief granted in Rule 6e–3(T) under the 1940 Act. The underlying funding vehicle for the VUL Policies is also the Series Fund. In addition, a guranteed interest account is available under the VUL Policies, pursuant to which all, or a portion of, cash values and net premiums may be allocated to the Company's general account.

7. Two death benefit options are offered under the VUL Policies. Under the first option, the death benefit is the face amount of the Policy at the time of death. Under the second, the death benefit is the face amount at the time of death plus the Policy's cash value at the time of death. After a VUL Policy has been in force for two years and provided that the Policy would continue to meet the tax law definition of life insurance, the death benefit option may be changed.

8. The VUL Policies permit a Policy owner to increase or decrease the face amount of his or her VUL Policy, subject to certain conditions and provided that the change would not cause the Policy to fail to meet the tax law definition of life insurance. Increases in face amount are subject to new evidence of insurability and (except in certain circumstances involving a prior decrease) result in an increase in applicable surrender charges. Decreases that do not reduce face amount below the minimum face amount initially offered are permitted, provided two Policy years have elapsed after the Policy anniversary or, if there has been an increase in face amount, after the date of the most recent increase.

9. During the first two Policy years, a VUL Policy can lapse only if the Policy owner fails to pay at least the required minimum payments to those two years. Subsequently, lapse can occur only if both (1) aggregate payments have been less than the minimum payments required to maintain the guaranteed death benefit, and (2) the cash value is insufficient to support the next monthly deduction.

10. Each VUL Policy has both a front-end sales load of 3% or premiums received throughout the life of the Policy and a deferred sales load of 47% of premiums paid up to the first two "Target Premiums." Target Premiums are always less than Guideline Annual Premiums, as defined in Rule 6e–3(T)(c)(8). In most cases, the full deferred sales load would be deducted from any surrender during the first five Policy years and then would be reduced by ten percent per year over the next ten years so that after the end of fifteen Policy years there would be no deferred

sales load. The deferred sales load also applies in the event of increases in face amount, with the charges computed as permitted under Rule 6e–3(T)(d)(2).

11. A charge of $6 per month is deducted from cash value to pay for administration of the VUL Policies. In addition, a charge for the administrative costs of underwriting and issuing a Policy that varies with the age of the insured at issuance (between $2 and $6 per $1000 of face amount) is accrued and assessed as a deferred charge this is graded down to zero over fifteen years on the same basis described above for deferred sales loads.

12. Cost of insurance charges under the VUL Policies are guaranteed to be no more than based upon the 1980 Commissioners Standard Ordinary Smoker/Nonsmoker Mortality Tables ("1980 CSO Tables"). The 1980 CSO Tables reflect increases in longevity that will translate into lower guaranteed cost of insurance charges for all of the existing Scheduled Policy owners. Further, current cost of insurance charges under the VUL Policies are even less than those permitted under the 1980 CSO Tables. A charge for mortality and expense risks assumed by the Company under the VUL Policies is deducted daily from cash value at an annual rate of 0.65%.

13. Policy loans are permitted under the VUL Policies in amounts up to the "loan value" of the Policy. The "loan value" is the Policy's cash value on the date of the loan minus monthly charges to be paid through the next Policy anniversary. Loans are charged at an annual rate of .50%, up to the "loan tier amount." The loan tier amount is 25% of an amount derived by subtracting aggregate minimum payments from cash value at the time of the loan. Loan amounts in excess of the "loan tier amount" are charged at a rate of 1.25%.

The Exchange Offer

14. Applicants propose to offer owners of Scheduled Policies the opportunity for a period of six to nine months to exchange their Scheduled Policies for VUL Policies. No direct or deferred sales charges will be imposed on the cash values rolled over into the VUL Policies by those Scheduled Policy owners who accept the exchange offer. All costs associated with the administration on the exchange offer will be borne solely by the Company. No deferred load will be imposed in connection with any payments under the VUL Policies except in connection with a surrender following an increase in face amount.

15. The face amount of each VUL Policy acquired through the exchange will be identical to that of the Scheduled Policy exchanged. No new evidence of insurability will be required in order to exchange Policies. As part of the exchange, smokers will receive nonsmokers' cost of insurance rates for a period of two years after the exchange and no charge will be made for the extra mortality risks associated with Policies having a face amount of less than $25,000. The Policy date of the VUL Policy received in exchange for a Scheduled Policy will be the date of the exchange. However, those who accept the exchange offer will be permitted to increase their face amount after only one month rather than having to wait a year, as provided in the VUL Policies.

16. The cash values rolled over from as Scheduled Policy to a VUL Policy will count as payments for purposes of computing the minimum payments needed to maintain the VUL Policy's guaranteed death benefit.

17. The fact that loans under the VUL Policies are on less favorable terms than under the Scheduled Policies will be noted in the sales literature that accompanies the offer of exchange. Scheduled Policy owners and participants who have outstanding Policy loans will receive personalize illustrations that reflect the impact of the less favorable loan feature of the VUL Policies. A Scheduled Policy owner with an outstanding loan who accepts the exchange offer will be permitted to choose between paying off his or her loan at the time of the exchange or continuing the loan under the terms of the VUL Policy.

18. The exchange offer will be made by means of a letter to owners of the Scheduled Policies, accompanied by a prospectus for the VUL Policies, personalized hypothetical illustrations which show the effect of the overall Policy costs to the owner of a Scheduled and a VUL Policy and a brief sales piece that compares the two Policies. Because of the disclosure materials provided, Policy holders will be able to make the choice of whether to accept or reject the exchange offer based on the relative value that the particular offeree places on the addition of a guaranteed interest investment option and the enhanced flexibility of the VUL Policies as compared to the additional expense that could be incurred. Disclosure materials will be delivered by representatives of the Underwriter who will solicit exchanges. While those representatives will be compensated by the Underwriter for exchanges effected, the cost of the commission payments will be borne solely by the Company rather than passed on to the Scheduled Policy owners who accept the exchange offer. Further, in the event that any Scheduled Policy owner for whom the personalized illustrations indicate that the Scheduled Policy would necessarily be less expensive that the VUL Policy, the materials will be mailed rather than delivered by a sales representative and no commission will be paid to a sales representative in connection with an effected exchange.

19. Because both the Scheduled and the VUL Policies are funded by investment in the Series Fund, no change in either the cost or provider of investment management will result from the exchange. Only if, after the exchange, a VUL Policy owner voluntarily elects to take advantage of the VUL Policies' option to allocate Policy values to the guaranteed interest account could there be any difference in the investment aspects of the two Policies. Accordingly, to the extent that there are differences in the Policies, those differences relate to insurance features and charges that are fully described in the prospectuses for the two Policies. Sales literature will highlight these difference for Scheduled Policy owners. The sales literature actually used will be submitted to the NASD for its review and approval.

20. The exchanges will constitute tax-free changes pursuant to section 1035 of the Internal Revenue Code. Any possibility that a VUL Policy could become treated as a modified endowment contract would be subsequent to the exchange, pursuant to the voluntary actions of the Policy owner, fully disclosed in the VUL Policy prospectus and highlighted in the letter transmitting the exchange offer to Scheduled Policy owners.

21. Applicants assert that, rather than being more expensive than the Scheduled Policies, the VUL Policies are likely to provide better life insurance protection at lower cost than the Scheduled Policies.

Applicant's Legal Analysis

22. Applicants assert that the legislative history of section 11 demonstrates that its purpose is to prevent the practice of inducing security holders of one investment company to exchange their securities for those of a different investment company solely for the purpose of exacting additional selling charges, practice found by Congress to be widespread in the 1930's prior to adoption of the 1940 Act. As a result, applications under section 11(a) and orders granting those applications have focused on sales loads or sales load differentials and administrative fees to be imposed as a result of a proposed exchange.

23. The literal wording of Rule 11a–2 may preclude reliance upon it for approval of the terms of the proposed exchange offer because the VUL Policies are designed with both a front-end and a deferred sales load. However, the terms of the proposed offer satisfy the substantive concerns of section 11 and of Rule 11a–2. Because no deferred loads will be imposed as a result of the exchange, the presence of both front-end and deferred sales loads should not affect the propriety of permitting the exchange. The effect of the exchange on a Scheduled Policy owner who decides to accept the offer would be precisely the same at the time of the exchange as if the VUL Policy acquired had no deferred load, a circumstance in which the exchange would have been permitted under Rule 11a–2. In addition, no sales load of either type will ever be imposed upon the Policy values rolled over in the exchange and no deferred load will ever be imposed on any subsequent payments under the VUL Policy acquired unless the Policy owner decides, after the exchange, to increase the face amount of his or her VUL Policy.

24. Adoption of Rule 11a–3, which takes a similar approach to that of Rule 11a–2, represents the most recent Commission action under section 11 of the 1940 Act. As with Rule 11a–2, the Commission, in constructing Rule 11a–3, focused primarily on the charges that would be incurred by investors solely as a result of the exchange. The terms of the proposed offer are consistent with the Commission's recent substantive approach in Rule 11a–3, because no additional sales or administrative charges will be incurred as a result of the exchange. However, because the investment companies involved in the proposed exchange offer are separate accounts and because they are organized as unit investment trusts rather than management investment companies, Applicants may not rely upon Rule 11a–3 despite the fact that their proposal would satisfy its substantive provisions.

25. Applicants assert that those who accept their exchange offer will pay even less sales load than they would pay if they reject the offer. Rather than paying a sales load of 7.5% of ongoing premium payments under the Scheduled Policies, they would pay only 3% under the VUL Policies. Those who would otherwise have incurred the 10% sales load applicable in years two through four under the Scheduled Policies would experience even greater savings of sales load. In addition, under a VUL Policy, lower or less frequent payments may be made than under a Scheduled Policy. Accordingly, an exchanging Policy owner may choose to make smaller payments for which sales load may be deducted. Finally, no immediate or deferred, direct or indirect administrative charge will be imposed in connection with the exchange.

26. The cash value of the VUL Policy received will be precisely the same immediately after the exchange as that of the Scheduled Policy exchanged immediately prior to the exchange. Accordingly, the exchanges will, in effect, be relative net asset value exchanges that would be permitted under section 11(a) if the separate accounts were not registered as unit investment trusts and thus subject to the requirements of section 11(c) that they obtain Commission approval of the terms of the exchange.

27. Applicants assert that their proposed offer is similar to others approved by Commission order and that they have satisfied the standards for an order under section 11(a) approving the terms of their offer.

Conditions

If the requested order is granted the Applicants agree to the following conditions:

1. The proposed exchange offer will entail full disclosure of difference in the two Policies and will include individualized comparisons of the overall impact of the different charge structure on the particular offeree. Each offeree with an outstanding loan will receive illustrations that reflect the results on continuing the loan under each Policy or paying it off at the date of exchange. If, for any offeree, the exchange will necessarily result in higher overall charges (including any loan administration fees) imposed at the separate account level, the hypothetical illustrations provided will fully disclose that fact.

2. Commission paid to representative of the Underwriter in connection with the exchanges will be paid solely by the Company and not by the Policy holders. In the event that a set of personalized illustrations reveal that the VUL Policy would always be more expensive than the Scheduled Policy for a particular Scheduled Policy owner, there will be no personal solicitation by a salesman and no commission paid in connection with the exchange.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–26207 Filed 11–5–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC—17829; 812–7593]

New England Funds, et al.; Application

October 30, 1990.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: The New England Funds ("NEF Trust"), Investment Trust of Boston Funds ("ITB Trust" and together with NEF Trust, the "Trusts"), New England Securities Corporation ("NEF Distributor"), and Investment Trust of Boston Distributors, Inc. ("ITB Distributor").

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to section 6(c) which would grant an exemption from the provisions of sections 2(a) (32), 2(a) (35), 22(c) and 22(d) and rule 22c–1.

SUMMARY OF APPLICATION: Applicants seek an order under section 6(c) of the 1940 Act which would permit the Trusts to assess a contingent deferred sales charge ("CDSC") on certain redemptions of shares.

FILING DATE: The Application was filed on September 19, 1990 and amendments were filed on October 4, 1990 and October 24, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 26, 1990, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549; Applicants, 399 Boylston Street, Boston, MA 02116.

FOR FURTHER INFORMATION CONTACT: Felice R. Foundos, Law Clerk, (202) 272–

2190, or Jeremy N. Rubenstein, Branch Chief, (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

Applicants' Representations

1. The Trusts are registered open-end diversified management investment companies organized as Massachusetts business trusts. NEF Trust distributes seven series of shares through NEF Distributor, which is NEF Trust's principal underwriter. ITB Trust distributes six series of shares through ITB Distributor, which is ITB Trust's principal underwriter. The series of each Trust are referred to below as "Funds."

2. NEF Trust currently offers its shares for sale at net asset value plus a traditional front-end sales charge which decreases as the quantity of shares purchased by any person increases. ITB Trust currently offers its shares (other than shares of its Liquid Reserves Portfolio, which is a money market fund sold without a sales load) for sale at net asset value plus a traditional front-end sales charge on transactions involving less than $5,000,000.

3. NEF Trust and ITB Trust each propose to eliminate the sales charge on all purchases of $1,000,000 or more, and to pay their respective Distributors a CDSC from the proceeds of certain redemptions of shares initially sold without a sales charge. The CDSC would be imposed only on shares issued on or after the date the order requested by the applicants is granted and only in the event of a redemption transaction within twelve months following the share purchase. The charge will be equal to 1% of the lesser of (a) the net asset value of the shares redeemed, or (b) the original cost of the investment being redeemed. No CDSC will be imposed when the investor redeems: (a) Amounts derived from increases in the value of the account above the original cost of the investment being redeemed due to increases in the net asset value per share of the relevant Fund; (b) shares acquired through reinvestment of dividend income and capital gains distributions; or (c) an investment that the investor has held for more than 12 months.

4. In determining whether a contingent deferred sales charge is payable, applicants propose to assume that shares, or amounts representing shares, that are not subject to any deferred sales load are redeemed first, and other shares are then redeemed in the order purchased, consistent with applicants undertaking to comply with proposed rule 6c–10 under the 1940 Act in the form proposed or as it may eventually be adopted.

5. No CDSC will be imposed on exchanges of shares of any Fund for shares of other Funds of the same Trust or on exchanges from either Trust into New England Cash Management Trust or New England Tax Exempt Money Market Trust, which are money market funds distributed by NEF Distributor. If, however, the shares acquired in an exchange are redeemed (other than in connection with a re-exchange) within twelve months following the original investment, a CDSC will be assessed at the rate of 1% of the lesser of (a) the net asset value of the shares redeemed or (b) the original cost of the shares initially purchased which were then exchanged and redeemed. Applicants will comply with rule 11a–3 under the 1940 Act, to the extent it is applicable, with respect to exchanges of shares that are subject to a CDSC.

6. Applicants intend to waive the CDSC on redemptions in connection with (a) distributions from retirement plans qualified under Internal Revenue Code ("Code") section 401(a) when such redemptions are necessary to make distributions to plan participants; (b) distributions from a custodial account under Code section 403(b)(7) or an individual retirement account (an "IRA") due to death, disability or attainment of age 59½; (c) a tax-free return or an excess contribution to an IRA; (d) distributions by other employee benefit plans to pay benefits; and (e) distributions from a retirement plan qualified under Code section 401(a) due to death.

7. Applicants propose to provide a credit for any CDSC paid in connection with a redemption of shares followed by a reinvestment effected within 30 days after the redemption.

Applicants' Legal Analysis

1. Applicants assert that the proposed CDSC is fair and is in the best interests of those shareholders upon whom it is imposed. The proposal allows such shareholders to have the advantage of greater investment dollars working for them at the time of their purchase of shares. The CDSC would not apply to shares held more than 12 months and would not apply to increases in the value of the shares acquired through reinvestment of distributions or increases in net asset value per share.

2. Applicants assert that the imposition of the CDSC would not cause shares of any Fund to fall outside the definition of "redeemable security" in section 2(a)(32) of the Act. Section 2(a)(32) defines redeemable security to be a security that, upon presentation to the issuer or to a person designated by the issuer, entitles the shareholder to receive approximately his proportionate share of the issuer's current net assets. Applicants assert that the imposition of the CDSC will not restrict a shareholder of any Fund from receiving a proportionate share of the current net assets of such Fund, but will merely defer the deduction of a sales charge and make it contingent upon an event which may never occur. However, to avoid uncertainty in this regard, applicants request an exemption from the operation of section 2(a)32) of the Act to the extent necessary to permit the imposition of the proposed CDSC.

3. Applicants assert that the charge is consistent with the intent of the definition of "sales load" in section 2(a)(35). Section 2(a)(35) defines sales load to be the amount properly chargeable to sales or promotional expenses that are paid at the time the securities are purchased. In this case, applicants will pay the CDSC to the relevant distributor to reimburse it for expenses related to the sale of shares; therefore, applicants submit that this arrangement is within the section 2(a)(35) definition of sales load, but for the timing of the imposition of the charge. Applicants contend that the deferral of the sales charge, and its contingency upon the occurrence of an event which may not occur, does not change the basic nature of this charge, which is in every other respect a sales charge.

4. Applicants assert that the implementation of the proposed CDSC would not violate section 22(c) of the Act or rule 22c–1 thereunder. Section 22(c) of the Act and rule 22c–1 thereunder require that the price of a redeemable security issued by an open-end management company for purposes of sale, redemption, and repurchase be based on the company's current net asset value. Applicants contend that the redemption price of the shares of the Funds is based on current net asset value. The CDSC charge is then deducted from this redemption price. However, to avoid any question as to the potential applicability of section 22(c) and rule 22c–1, applicants request an exemption from rule 22c–1 to the extent necessary or appropriate to permit applicants to impose the proposed CDSC.

5. Applicants request an exemption from the provisions of section 22(d) of the Act to permit the waiver of the CDSC as described in this notice. Section 22(d) requires a registered investment company, principal underwriter, or dealer in redeemable securities to sell these securities only at a current public offering price described

in the company's prospectus. Subject to certain conditions, rule 22d–1 provides an exemption from section 22(d) allowing investment companies to charge different loads to different classes of investors. Traditionally, rule 22d–1 has applied to sales loads at the time of purchase. Applicants contend, however, that the policies underlying rule 22d–1 are equally applicable to waivers of a deferred sales load. Therefore as long as the conditions of rule 22–1 have been satisfied, waivers of a CDSC for certain classes of shareholders will be consistent with the rule's policy. Applicants contend that they will satisfy all conditions set forth in rule 22d–1 with respect to any such waivers.

Applicant's Condition

If the request to issue the order is granted, applicants expressly consent to the following condition:

The applicants will comply with the provisions of proposed rule 6c–10 under the 1940 Act (including any modifications that are proposed prior to the adoption of such rule) until such rule is adopted, and after such adoption will comply with such rule in the form in which it is in effect from time to time.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–26208 Filed 11–5–90; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB on October 26, 1990

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on October 26, 1990, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annette Wilson or Susan Pickrel, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street SW., Washington, DC 20590, telephone, (202) 366–4735, or Edward Clarke or Wayne Brough, Office of Management and Budget, New Executive Office Building, room 3228, Washington, DC 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "**FOR FURTHER INFORMATION CONTACT**" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "**FOR FURTHER INFORMATION CONTACT**" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on October 26, 1990.

DOT No: 3400

OMB No: 2115–0007.
Administration: U.S. Coast Guard.
Title: Application for Vessel Inspection and Waiver.
Need for Information: This requirement provides basic information which is necessary for the initial planning and scheduling of a vessel inspection. Also, the information collection allows certain vessel owners and operators to apply for a waiver from the inspection laws based on national defense considerations.
Proposed Use of Information: Coast Guard uses this information to schedule and plan vessel inspections and to analyze the request for waiver.
Frequency: On occasion and triennially.
Burden Estimate: 1,511 hours.
Respondents: Owners, operators and agents of commercial vessels.
Form(s): CG–2633 and CG–3752.
Average Burden Hours Per Respondent: 15 minutes.

DOT No: 3401

OMB No: 2153–0111.
Administration: U.S. Coast Guard.
Title: Course Approvals for Merchant Marine Training Schools.
Need for Information: This is a recordkeeping requirement necessary to ensure that schools desiring to have a course approved by Coast Guard meet minimal statutory requirements.
Proposed Use of Information: Coast Guard uses this information to approve the curriculum, facility and faculty for these training schools.
Frequency: Five (5) years for reporting; one (1) year for recordkeeping.
Burden Estimate: 2,120 hours.
Respondents: Merchant Marine Training Schools.
Form(s): None.
Average Burden Hours Per Respondent: 4 hours for reporting and 30 hours for recordkeeping.

DOT No: 3402

OMB No: New.
Administration: Federal Aviation Administration.
Title: J.F.K. Stop Bar Demonstration/ Evaluation.
Need for Information: This information is needed to make a reliable decision regarding the adequacy of the "Stop Bar lighting system."
Proposed Use of Information: The FAA will be using the requested information in a final report based largely on pilot response to the questionnaire.
Frequency: One-time questionnaire.
Burden Estimate: 8 hours.
Respondents: Individuals (Pilots using the runway equipped with that lighting system at John F. Kennedy International Airport.)
Form(s): Questionnaire.
Average Burden Hours Per Response: 5 minutes.

DOT No: 3403

OMB No: 2127–0547.
Administration: National Highway Traffic Safety Administration.
Title: 49 CFR Part 544—Insurer Reporting Requirements—Motor Vehicle Theft Law Enforcement Act of 1984.
Need for Information: To aid in implementing and evaluating the

provisions of the Motor Vehicle Theft Law Enforcement Act.

Proposed Use of Information: Insurance companies and rental/leasing companies are required to provide information to NHTSA on comprehensive insurance premiums charged by insurers of motor vehicles due to vehicle thefts and distribution of stolen vehicle parts.

Frequency: Annually.

Burden Estimate: 238,780 hours.

Respondents: 50 Businesses/organizations.

Form(s): None.

Average Burden Hours Per Respondent: 79.5 hours.

DOT No: 3404

OMB No: 2127–0045.

Administration: National Highway Traffic Safety Administration.

Title: 49 CFR Part 556, Petitions for Inconsequentiality.

Need for Information: To determine that a defect or noncompliance is inconsequential.

Proposed Use of Information: This regulation establishes procedures for manufacturers to petition this agency for an exemption from the notice and remedy requirements of the Safety Act due to the inconsequentiality of the defect or noncompliance as it relates to motor vehicle safety.

Frequency: On occasion.

Burden Estimate: 30 hours.

Respondents: Businesses/organizations.

Form(s): None.

Average Burden Hours Per Respondent: 2 hours.

DOT No: 3405

OMB No: 2115–0010.

Administration: U.S. Coast Guard.

Title: Recreation Boating Accident Report.

Need for Information: Coast Guard needs this information collection requirement to comply with 46 U.S.C. 6102 (a) and (b) relative to recreational boating accidents.

Proposed Use of Information: Coast Guard uses this information to: (1) identify possible manufacturer defects in boats or equipment; (2) develop boat manufacturer standards; (3) develop safe boating education programs; and (4) publish statistical information. This requirement is also used for other program and analytical purposes.

Frequency: On occasion.

Burden Estimate: 4,232 hours.

Respondents: Recreational boat operators and state and local governments.

Form(s): CG–3865, CG–3865A.

Average Burden Hours Per Respondent: 30 minutes associated with Form CG–3865 and 3½ minutes associated with Form CG–3865A.

DOT No: 3406

OMB No: 2115–0514.

Administration: U.S. Coast Guard.

Title: Merchant Marine License, Certificate and Documents.

Need for Information: This requirement is needed to determine and document the training, experience, physical condition, professional qualifications and character of persons applying for a merchant marine license, certificate or document.

Proposed Use of Information: Coast Guard uses this information to determine the applicant's qualifications to receive or continue to hold a license, certificate or document.

Frequency: On occasion.

Burden Estimate: 101,087 hours.

Respondents: Applicants for merchant marine license, certificate or document.

Form(s): CG–719K, 866, 4509, 4510, 719, 2765, 2838, 719A, 5206, 5205, 4865, 3750, 2987, 2849, 887, and FD–258.

Average Burden Hours Per Respondent: 30 minutes per reporting activity; 45 seconds per recordkeeping.

DOT No: 3407

OMB No: 2120–0001.

Administration: Federal Aviation Administration.

Title: Notice of Proposed (or Actual) Construction or Alteration.

Need for Information: The information on proposed or actual construction or alteration of structures affecting air safety is needed to give adequate public notice.

Proposed Use of Information: The information is used to (a) establish minimum flight altitudes and procedures to ensure that aircraft are operated at safe distances from persons and property on the ground; (b) protect established minimum flight altitudes and procedures from unannounced or unknown structures that would have collision potential; (c) protect electronic air navigational aids from electromagnetic interference that causes false information to be presented to pilots which could lead the aircraft into surface objects or terrain with disastrous results; (d) provide accurate charting and other notification to airmen of the construction or alteration; (e) recommend appropriate obstruction marking and lighting to improve the conspicuousness of surface objects to help pilots see and avoid them; and (f) develop technical standards and provide guidance in the design and construction of airports.

Frequency: On occasion.

Burden Estimate: 15,310 hours.

Respondents: Anyone proposing to build or alter a construction which may affect air transportation.

Form(s): FAA Forms 7460–1, 7460–2, 7460–11.

Average Burden Hours Per Respondent:

FAA Form 7460–1=1 hour.
FAA Form 7460–2=12 minutes.
FAA Form 7460–11=5 minutes.

DOT No: 3408

OMB No: 2120–0034.

Administration: Federal Aviation Administration.

Title: Medical Standards and Certification—FAR 67.

Need for Information: The FAA needs the information to assess if an applicant is medically qualified to perform the duties associated with the class of airmen medical certificate sought.

Proposed Use of Information: The information obtained from FAA Form 8500–8 is used to determine medical eligibility for the certificate sought.

Frequency: On occasion.

Burden Estimate: 987,361 hours.

Respondents: Airmen.

Form(s): FAA Forms 8500–7, 8500–8, 8500–14, and 8500–20.

Average Burden Hours Per Respondent: The average burden associated with FAA Form 8500–7 is 15 minutes; FAA Form 8500–8 is 2 hours (30 minutes for form and 1.5 hours for physical); FAA Form 8500–14 is 15 minutes; and FAA Form 8500–20 is 10 minutes.

DOT No: 3409

OMB No: 2120–0517.

Administration: Federal Aviation Administration.

Title: FAR Part 150—Airport Noise Compatibility Planning.

Need for Information: The airport sponsors voluntarily submit noise exposure maps and noise compatibility programs for FAA review and approval. Approval of these programs would allow the airport to be eligible for a 10% set aside of grant funds. This information is needed by the FAA to conduct its Aviation Safety and Noise Abatement Act of 1979 (ASNA) required reviews.

Proposed Use of Information: The information would be used to meet the goal of reducing noncompatible land uses or the number of people adversely impacted by aircraft noise, and preventing the introduction of additional noncompatible land uses or people in the noise areas around airports.

Frequency: On occasion.

Burden Estimate: 78,300 hours.
Respondents: State and local governments.
Form(s): None.
Average Burden Hours Per Respondent: 2,175 hours.

DOT No: 3410

OMB No: 2120–0044.
Administration: Federal Aviation Administration.
Title: Rotorcraft External Load Operator Certificate Application—FAR 133.
Need for Information: The information is needed to determine eligibility for initial and renewal certification as a Rotorcraft External Load Operator.
Proposed Use of Information: The information is used by the FAA to process applications from operators seeking initial or renewal issuance of external-load operating certificates.
Frequency: On occasion.
Burden Estimate: 3,268 hours.
Respondents: External or perspective external load operators.
Form(s): FAA Form 8710–4.
Average Burden Hours Per Respondent: The burden for Form 8710–4 is 18 minutes. The burden for other information averages 2 hours or 40 hours for submission of a manual.

DOT No: 3411

OMB No: New.
Administration: DOT, Office of Inspector General.
Title: Publication of the Local Notice Mariners, U.S. Coast Guard, Survey Questionnaire.
Need for Information: The information is necessary for the successful completion of Audit Project #9280022000 Review of Publication and Information Material.
Proposed Use of Information: The information will be used to reduce the cost incurred by the U.S. Coast Guard, by either reducing the frequency of the LNM or imposing a user fee.
Frequency: One-time questionnaire.
Burden Estimate: 500 hours.
Respondents: 500 mariners.
Form(s): Questionnaire.
Average Burden Hours Per Respondent: 1 hour.

DOT No: 3412

OMB No: 2115–0139.
Administration: U.S. Coast Guard.
Title: Ship's Store's Certification for Hazardous Materials Aboard Ship.
Need for Information: This information collection requirement is needed to regulate the transportation, stowage and use of ships' stores and dangerous supplies.
Proposed Use of Information: Coast Guard uses this information to (1) determine whether a product can be identified as hazardous material and to properly classify it; (2) make certain that the instructions on the label are adequate to protect users from bodily harm; and (3) provide proper safeguards in case of excessive exposure or accident.
Frequency: On occasion.
Burden Estimate: 30 hours.
Respondents: Manufacturers of dangerous products used on ships.
Form(s): None.
Average Burden Hours Per Respondent: 3 hours.

DOT No: 3413

OMB No: 2115–0035.
Administration: U.S. Coast Guard.
Title: Defect/Compliance Report: Campaign Update Report.
Need for Information: Coast Guard needs this information collection requirement to determine if manufacturers of recreational boats and associated equipment are complying with the statutory requirements.
Proposed Use of Information: Coast Guard uses this information to evaluate the: (1) severity of defects and failures to comply with regulations; (2) danger presented to the public; (3) defects or failures to comply; and (4) corrective action proposed by a manufacturer. This information is also used to monitor the progress of notifications and recalls undertaken by manufacturers.
Frequency: On occasion.
Burden Estimate: 549 hours.
Respondents: Recreational boat and associated equipment manufacturers.
Form(s): CG–4917, CG–4918.
Average Burden Hours Per Respondent: 45 minutes for reporting and 2 hours for recordkeeping.

DOT No: 3414

OMB No: 2115–0143.
Administration: U.S. Coast Guard.
Title: Evidence of U.S. Citizenship or Lawful Alien Status for Workers on the Outer Continental Shelf (OCS).
Need for Information: This information collection requirement is needed to ensure compliance with the statutory mandate that OCS facilities be manned or crewed with U.S. citizens or permanent resident aliens.
Proposed Use of Information: Coast Guard uses this information to ascertain the citizenship of personnel employed on the OCS. This requirement is used in conjunction with the commercial vessel safety program.
Frequency: On occasion for reporting; recordkeeping retention period is 3 years.
Burden Estimate: 1,700 hours.
Respondents: Employees of personnel, and the employees engaged in exploration, development and production of resources on the OCS.
Form(s): None.
Average Burden Hours Per Respondent: 3 minutes for reporting and 27 minutes for recordkeeping.

DOT No: 3415

OMB No: 2115–0053.
Administration: U.S. Coast Guard.
Title: Request for Designation and Exemption of Oceanographic Vessels.
Need for Information: This information collection requirement is necessary to exempt oceanographic research vessels from statutes and regulations governing the shipment, discharge, payment and personal outfitting of merchant seamen.
Proposed Use of Information: Coast Guard uses this information to determine if certain oceanographic vessels should be exempted from specific regulatory requirements.
Frequency: On occasion and triennially.
Burden Estimate: 12.5 hours.
Respondents: Research oceanographic vessel owners/operators.
Form(s): None.
Average Burden Hours Per Respondent: 1 hour for reporting; 30 minutes for recordkeeping.

DOT No: 3416

OMB No: 2137–0572.
Administration: Research & Special Programs Administration.
Title: Testing Requirements for Packaging.
Need for Information: Needed to determine compliance of manufacturers to the general requirements for packaging to the extent that those requirements apply to the design, construction, and suitability for use of the standard to which manufactured.
Proposed Use of Information: Test criteria and performance standards established for non-bulk packaging manufacturers to assure transportation safety of hazardous materials. The Department uses these requirements to determine whether shippers are sharing responsibility with manufacturers to the degree that they cooperatively develop safety in transport through performance-oriented packaging.
Frequency: On occasion.
Burden Estimate: 30,000 hours.
Respondents: 5,000.
Form(s): None.
Average Burden Hours Per Respondent: 2 hours.

DOT No: 3417

OMB No: 2137–0557.
Administration: Research and Special Programs Administration.
Title: Approvals for Hazardous Materials.
Need for Information: To ascertain that applicants to become designated approval agencies are qualified and to assure that hazardous materials which pose a special danger to life and property in transportation are being packaged, loaded and transported in a safe manner.
Proposed Use of Information: To verify qualifications of applicants to become approval agencies and to ascertain that materials posing special hazards in transportation channels are safe to transport.
Frequency: On occasion.
Burden Estimate: 3,967 hours.
Respondents: 759.
Form(s): None.
Average Burden Hours Per Respondent: 4 hours and 45 minutes reporting and 2 minutes for recordkeeping.

DOT No: 3418

OMB No: 2120–0007.
Administration: Federal Aviation Administration.
Title: Flight Engineers and Flight Navigators.
Need for Information: The information is reviewed to determine applicant eligibility and compliance with prescribed provisions of FAR 63, Certification: Flight Crew Members Other Than Pilots.
Proposed Use of Information: FAR 63 prescribes requirements for examination and rating of flying schools. FAR 63 prescribes requirements for flight navigator certification and training course requirements for these airmen. The information collected is used to determine certification eligibility.
Frequency: On occasion.
Burden Estimate: 25,426 hours.
Respondents: Individuals and businesses.
Form(s): FAA Form 8400–3.
Average Burden Hours Per Respondent: 6 minutes for reporting (individuals); 10 to 40 hours for reporting (businesses); and 10 hours for recordkeeping.

DOT No: 3419

OMB No: 2120–0025.
Administration: Federal Aviation Administration.
Title: Crewmember Certificate Application.
Need for Information: The FAA needs the information to determine applicant eligibility for issuance of the certificate used in lieu of a passport.
Proposed Use of Information: The information is used by the FAA to issue certificates used by international flight crewmembers of U.S. air carriers in lieu of a passport, thus facilitating entry and re-entry into ICAO contracting countries.
Frequency: On occasion.
Burden Estimate: 1,133 hours.
Respondents: Individuals.
Form(s): FAA Form 8060–6.
Average Burden Hours Per Respondent: 8 minutes.

DOT No: 3420

OMB No: 2120–0009.
Administration: Federal Aviation Administration.
Title: Pilot Schools—FAR 141.
Need for Information: The information is needed to issue, renew, or amend the applicant's pilot school certificate.
Proposed Use of Information: The information is used for certification and to determine compliance.
Frequency: On occasion.
Burden Estimate: 46,674 hours.
Respondents: Those people with or wishing to be issued pilot school certificates.
Form(s): FAA Form 8420–8.
Average Burden Hours Per Respondent: 30 minutes to 20 hours for reporting, depending on application, and 50 hours for recordkeeping.

DOT No: 3421

OMB No: New.
Administration: Research & Special Programs Administration.
Title: Statement of Structural Serviceability for Freight Containers to be used for Class 1.1 and 1.2 Explosives.
Need for Information: To assure the structural serviceability of freight containers used to ship explosives.
Proposed Use of Information: Shippers of explosives in freight containers would be required to certify on the shipping documentation that the container meets the structural serviceability.
Frequency: Whenever explosives are shipped in freight containers by vessel.
Burden Estimate: 4,000 hours.
Respondents: Shippers of explosives in freight containers.
Form(s): None.
Average Burden Hours Per Respondent: 1 hour.

DOT No: 3422

OMB No: 2106–0005.
Administration: Office of the Secretary of Transportation.
Title: Public Charters Title 14 CFR 380.
Need for Information: Regulatory compliance.
Proposed Use of Information: Financial protection for traveling public and U.S. charter operators.
Frequency: On occasion.
Burden Estimate: 2,110.
Respondents: 310.
Form(s): 4530, 4532, 4533, 4534, and 4535.
Average Burden Hours Per Respondent: 1 hour.

Issued in Washington, DC on October 29, 1990.

Robert J. Woods,

Director of Information, Resource Management.

[FR Doc. 90–26126 Filed 11–5–90; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

[Summary Notice No. PE–90–45]

Petitions for Exemption; Summary of Petitions Received; Disposition of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: November 26, 1990.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket

and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on October 31, 1990.

Denise Donohue Hall,

Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 004SW.
Petitioner: Helicopter Association International.
Sections of the FAR Affected: 14 CFR 6.488.
Description of Relief Sought: To allow Sikorsky Model S-58 helicopters with standard airworthiness certificates to operate without an engine compartment fire extinguisher. Approximately 40 aircraft may be affected.

Dispositions of Peitions

Docket No.: 23492.
Petitioner: United States Hang Gliding Association.
Sections of the FAR Affected: 14 CFR 103.1(a).
Description of Relief Sought/ Disposition: To extend Exemption No. 4721, as amended, which permits petitioner's members to operate two-place unpowered ultralight vehicles for the purposes of sport, training, and recreation. Grant, October 25, 1990, Exemption No. 4721B

Docket No.: 25030.
Petitioner: Pan Am Express, Inc.
Sections of the FAR Affected: 14 CFR 93.123 and 93.129.
Description of Relief Sought: To extend Exemption No. 4777D that allows petitioner to conduct 10 operations during 4 of the 5 high-density hours at JFK International Airport. Grant, October 24, 1990, Exemption No. 4777E

[FR Doc. 90-26163 Filed 11-5-90; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Alameda County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for the proposed Route 84 highway project in the cities of Fremont, Union City and Hayward in Alameda County, California.

FOR FURTHER INFORMATION CONTACT: C. Glenn Clinton, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California, 95812-1915. Telephone: (916) 551-1314.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (CALTRANS) and the Alameda County Transportation Authority (ACTA), will prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) on a proposed realignment of California State Route 84. Route 84 extends in an east-west direction between Route 1 in San Mateo County and I-580 in Livermore. The subject of the study is the section of Route 84 through Fremont and Union City. The segment is a two lane conventional highway (no access control) through commercial and residential areas. Route 84 is approximately three miles long and extends from I-880 (Nimitz Freeway) to State Route 238 (Mission Boulevard).

The project is needed to relieve existing and projected future congestion along the existing highway as well as on major arterials in Fremont and Union City; and to improve the alignment of Route 84 between I-880 and Route 238. The current alignment of Route 84 encompasses portions of several local streets including Thornton Avenue, Fremont Boulevard, Peralta Boulevard, and Mowry Avenue. There are numerous traffic signals which reduce traffic capacity and speed between Route 238 and I-880. There are no other direct routes between I-880 and Route 238 in the vicinity of existing Route 84, with the exception of Decoto Road. A number of locations in the vicinity of the proposed project have significant congestion including: Fremont Boulevard, Stevenson Boulevard, State Route 238, I-880 north of Decoto Road, and most interchanges along I-880. The proposal is to be funded by local Alameda County Transportation Authority (ACTA) Measure B funds.

Proposed roadway options include a 4-6 lane parkway/expressway or a freeway or various combinations thereof. Alternatives being studied include the following:

1. Realignment of Route 84 along the Route Concept alignment, (referred to as "Historic 84") in the City of Fremont. This corridor begins at I-880 and the Decoto Road interchange and proceeds northeasterly along Decoto Road for approximately three quarters of a mile where it then diverges from Decoto Road in a more easterly direction. This alignment continues to follow an easterly direction until it intersects Route 238. This alternative is being examined as a parkway/expressway (partial access control) and a freeway (full access control).

2. Realignment of Route 84 along Decoto Road in Union City. Currently Decoto Road is an arterial street that runs between I-880 and Route 238, with a number of at-grade intersections and all major intersections are signalized. Under this alternative Decoto would be upgraded to either a parkway/ expressway or a freeway with a parallel frontage road to service local access needs.

3. Upgrade existing Route 84 along Thornton Avenue, Fremont Boulevard, Peralta Boulevard and Mowry Avenue from I-880 to Route 238 in the City of Fremont. Parkway/expressway and freeway concepts will be considered along this corridor. This alternative may require construction of a parallel circulation street or frontage road to service local businesses.

4. Upgrade Industrial Parkway between I-880 and Route 238 in The City of Hayward. Currently, Industrial Parkway is a major arterial designed to city standards, which runs between I-880 and State Route 238 and is comprised of several at-grade intersections. All major intersections are signalized. Parkway/expressway and freeway concepts will be considered along this corridor. A freeway would require a parallel frontage road to service local access needs.

5. No Build. This alternative assumes no upgrades to existing Route 84 from I-880 to Route 238. Currently, these streets are local streets designed to city standards, with numerous at-grade intersections. All major intersections are signalized. This alternative does not propose any improvements, aside from routine maintenance, and spot improvements for local needs.

The proposed scoping process includes the distribution of the Notice of Preparation to each responsible and trustee agency pursuant to the California Environmental Quality Act, publication of the Notice of Intent in the **Federal Register**, and a scoping meeting/ open house to be held this fall. Also, letters describing the proposed action and soliciting comments, will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens in the study area. Additional public and agency meetings will be held throughout the study to

provide information and receive input on the proposal. A Draft EIS will be circulated for public and agency review and comment followed by a formal public hearing. Public notices will be mailed and/or advertised in local newspapers indicating the time and place of the meetings.

To ensure that a full range of environmental issues and public concerns related to this proposed action are addressed and that all potential significant effects identified, comments and suggestions are invited from all interested parties. If you have any information regarding historic resources, endangered species or other sensitive issues which could be affected by this project, please notify this office. Also, please indicate if you would be interested in being notified at completion of historic resource studies. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address previously provided in this document.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on October 25, 1990.

C. Glenn Clinton,

District Engineer, Sacramento, California.

[FR Doc. 90-26189 Filed 11-5-90; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: October 31, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.
Form Number: 8823.
Type of Review: New Collection.
Title: Low-Income Housing Credit Agency's Report of Noncompliance.
Description: Housing credit agencies are required to notify the IRS when they learn that any building, to which they have allocated any low-income housing credit, is not in compliance with the low-income housing tax credit provisions.
Respondents: State or local governments.
Estimated Number of Respondents: 58.
Estimated Burden Hours Per Response/Recordkeeping:
Recordkeeping; 3 hours, 35 minutes.
Learning about the law or the form; 12 minutes.
Preparing and sending the form to IRS; 16 minutes.
Frequency of Response: Annually.
Estimated Total Recordkeeping/Reporting Burden: 1,620 hours.
Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois R. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90-26191 Filed 11-5-90; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 215
Tuesday, November 6, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. COMMISSION ON CIVIL RIGHTS

Dated: November 9, 1990.

DATE AND TIME: Friday, November 9, 1990, 9 a.m.–5 p.m.

PLACE: 1121 Vermont Avenue, NW., Room 512, Washington, DC 20425.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of September Meeting
III. Approval of Minutes of October Telephonic Meeting
IV. Announcements
V. Draft Report on *Enforcement of the Indian Civil Rights Act of 1989*
VI. Staff Director's Report
VII. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications Division, (202) 376–8312.

Emma Monroig,
Solicitor.

[FR Doc. 90–26358 Filed 11–2–90; 3:48 pm]
BILLING CODE 6335–01–M

FEDERAL COMMUNICATIONS COMMISSION

November 1, 1990.

FCC To Hold Open Commission Meeting Thursday, November 8, 1990

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, November 8, 1990, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Item No., Bureau, and Subject

1—Mass Media—Title: Implementation of the Children's Television Act of 1990. Summary: The Commission will consider adoption of a Notice of Proposed Rulemaking initiating a proceeding to implement the terms of the Children's Television Act of 1990, and further action in MM Docket No. 83–670.

2—Mass Media—Title: In the Matter of Modification of FM and Television Authorizations to Specify a New Community of License (MM Docket No. 88–526). Summary: The Commission will consider adoption of a *Memorandum Opinion and Order* addressing petitions for reconsideration of the *Report and Order* adopted in this docket.

3—Mass Media—Title: Report and Order pertaining to Amendment of Part 74 of the Commission's Rules Concerning FM Translator Stations (MM Docket No. 88–140). Summary: The Commission will consider adoption of a *Report and Order* modifying certain rules and policies governing the FM translator service.

4—Common Carrier—Title: In the Matter of Modification of Telecommunications Services for Hearing-Impaired and Speech-Impaired Individuals, and the Americans with Disabilities Act of 1990. Summary: The Commission will consider issuance of a Notice of Proposed Rulemaking to amend the rules in conformance with new section 225 and amended section 711 of the Communications Act, pursuant to the Americans with Disabilities Act of 1990, Pub. L. 101–336, enacted July 26, 1990.

5—Common Carrier—Title: Applications for Section 214 Authority and Cable Landing Licenses to Construct, Land, and Operate the HAW–5, PacRimEast, and PacRimWest Cable Systems. Summary: The Commission will consider six applications regarding proposed Pacific region submarine communications cable systems to provide service in the 1993–2005 time period.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632–5050.

Federal Communications Commission.

Issued: November 1, 1990.

Donna R. Searcy,
Secretary.

[FR Doc. 90–26284 Filed 11–2–90; 11:34 am]
BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 12 noon, Tuesday, November 13, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 90–26360 Filed 11–2–90; 3:48 pm]
BILLING CODE 6210–01–M

INTERNATIONAL TRADE COMMISSION

[USITC SE–90–25]

TIME AND DATE: Tuesday, November 20, 1990 at 10:30 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints
   a. Certain Rotary Printing Apparatus Using Heated Ink Composition, Components Thereof, and Systems Containing Said Apparatus and Components (D/N 1592)
   b. Certain Automotive Fuel Caps and Radiator Caps and Related Packaging and Promotional Materials (D/N 1591)
5. Any items left over from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252–1000.

Dated: October 31, 1990.

Kenneth Mason,
Secretary.

[FR Doc. 90–26351 Filed 11–2–90; 2:57 pm]
BILLING CODE 7020–02–M

NATIONAL SCIENCE BOARD

DATE AND TIME:

November 16, 1990 8:30 a.m. Closed Session
November 16, 1990 8:50 a.m. Open Session

PLACE: National Science Foundation, 1800 G Street, NW., Room 540, Washington, DC 20550.

STATUS:

Part of this meeting will be open to the public.
Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED NOVEMBER 16:

Friday, November 16, 1990

Closed Session (8:30 a.m. to 8:50 a.m.)

1. Minutes—October 1990 Meetings
2. NSB and NSF Staff Nominees
3. Future NSF Budgets
4. Grants and Contracts

Friday, November 16, 1990

Open Session (8:50 a.m. to 11:45 a.m.)

Swearing-in Ceremony for New NSB Members

5. Chairman's Report
6. Minutes—October 1990 Meeting
7. Director's Report
8. Protocol for NSB Award Approvals
9. Conflicts-of-Interests
10. Draft Report of the Committee on Europe in 1992—Implications for U.S. S&T
11. Other Business

Thomas Ubois,

Executive Officer.

[FR Doc. 90-26343 Filed 11-2-90; 2:56 pm]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of November 5, 12, 19, and 26, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of November 5

Thursday, November 8

10:00 a.m.
Briefing on Progress of Research in the Area of Organization and Management (Public Meeting)

2:00 p.m.
Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Kerr-McGee's Petition for Reconsideration (Tentative)

Week of November 12—Tentative

Friday, November 16

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 19—Tentative

Wednesday, November 21

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 26—Tentative

Thursday, November 29

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting (if needed)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING) (301) 492-0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492-1661.

Dated: November 1, 1990.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 90-26356 Filed 11-2-90; 2:56 pm]

BILLING CODE 7590-01-M

federal register

Tuesday
November 6, 1990

Part II

Environmental Protection Agency

40 CFR Part 721

Significant New Uses of Certain Chemical Substances; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50588; FRL-3796-8]

RIN 2070-AB27

Significant New Uses of Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for several chemical substances which were the subject of premanufacture notices (PMNs), and are subject to TSCA section 5(e) consent orders issued by EPA. Today's action requires certain persons who intend to manufacture, import, or process these substances for a significant new use to notify EPA at least 90 days before commencing the manufacturing or processing activity designated by this SNUR as a significant new use. The required notice will provide EPA with the opportunity to evaluate the intended use, and, if necessary, to prohibit or limit that activity before it occurs. Seven acrylate substances are not included for reasons specified in Unit III. EPA is promulgating this SNUR using direct final procedures.

DATES: This rule is effective January 7, 1991. If EPA receives notice before December 6, 1990 that someone wishes to submit adverse or critical comments on EPA's action in establishing a SNUR for one or more of the chemical substances subject to this rule, EPA will withdraw the SNUR for the chemical for which the notice of intent to comment is received, and will issue a proposed SNUR providing a 30-day period for public comment.

ADDRESSES: Each comment or notice of intent to submit adverse or critical comment must bear the docket control number OPTS-50588 and the name(s) of the chemical substance(s) subject to the comment. Since some comments may contain confidential business information (CBI), all comments should be sent in triplicate to: TSCA Document Receipt Office (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. E-105, 401 M St., SW., Washington, DC 20460. Nonconfidential versions of comments on this rule will be placed in the rulemaking record and will be available for public inspection. The Supplementary Information unit of this preamble contains additional information on submitting comments containing CBI.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543-B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: This SNUR will require persons to notify EPA at least 90 days before commencing any activity designated by this SNUR as a significant new use. The supporting rationale and background to this rule are more fully set out in the preamble to EPA's first direct final SNURs published in the **Federal Register** at 55 FR 17376 on April 24, 1990. Consult that preamble for further information on the objectives, rationale, and procedures for the rules and on the basis for significant new use designations including provisions for developing test data.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.10.

II. Applicability of General Provisions

General provisions for SNURs appear under subpart A of 40 CFR part 721. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of rule to uses occurring before the effective date of the final rule. Rules on user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and 5(d)(1), the exemptions authorized by section 5(h)(1), (2), (3), and (5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities on which it has received the SNUR notice. If EPA does not take action, EPA is required under section 5(g) to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707. Persons who intend to import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28, and must certify that they are in compliance with the SNUR requirements. The EPA policy in support of the importation certification appears at 40 CFR part 707.

III. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for the following chemical substances under 40 CFR part 721 subpart E. In this unit, EPA provides a brief description for each substance, including its PMN number, chemical name (generic name if the specific name is claimed as CBI), CAS number (if applicable), basis for the action taken by EPA in the section 5(e) consent order for the substance (including the statutory citation and specific finding), and the CFR citation assigned in the regulatory text section of this rule. The specific uses which are designated as significant new uses are cited in the regulatory text section of the rule by reference to 40 CFR part 721 subpart B where the significant new uses are described in detail. Where the underlying section 5(e) order prohibits the PMN submitter from exceeding a specified production limit without performing specific tests to determine the health or environmental effects of a substance, the tests are described in this unit. As explained further in Unit VI., the SNUR for such substances contains the same production limit, and exceeding the production limit is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a significant new use notice at least 90 days in advance. In addition, this unit describes tests that are recommended by EPA to provide sufficient information to evaluate the substance, but for which no production limit has been established in the section 5(e) order. Descriptions of recommended tests are provided for informational purposes.

The SNURs on PMN substances (P-89-810 and P-89-998) regulate chemical substances subject to section 5(e) orders solely on a finding under TSCA section 5(e)(1)(A)(ii)(II) of substantial

production volume and significant or substantial human or environmental exposure. In these cases, there was limited or no toxicity data available for the PMN substances, potentially substantial production volume, and potentially significant or substantial human or environmental exposure. In such cases, EPA regulates new chemical substances under section 5(e) by requiring certain toxicity tests. Substances with potentially substantial human exposures would be subject to health effects testing such as mutagenicity, acute effects, and subchronic effects.

Some of the earlier section 5(e) orders contain provisions that required wording changes to be converted into SNURs. In some instances, the SNUR text is merely more detailed (e.g., the provision for a written hazard communication program in § 721.72(a) is more detailed than the hazard communication provisions in some earlier orders or the provision for dermal protection in § 721.63(a)(1) and (a)(3) is worded differently from dermal protection provisions in some earlier orders). In such cases, EPA considers the SNUR and section 5(e) provisions to be generally equivalent. Moreover, the companies which entered into the more limited hazard communication provisions of the earlier 5(e) orders, as well as those companies covered by the SNURs, are generally subject to the requirements of the Occupational Safety and Health Administration's hazard communication standard at 29 CFR 1910.1200. Therefore, EPA believes it equitable and minimally burdensome to include in the SNUR those requirements of the hazard communication standard that are generally considered to be acceptable in informing workers of potential chemical hazards.

In some instances, however, a particular requirement may be so differently worded from the corresponding SNUR provision that the basis of the SNUR provision is not evident. Where this occurs, the preamble below explains why the SNUR provision was chosen.

As presented in the regulatory text that follows, all 14 of these substances except P-89-810 and P-89-998 are exempt from § 721.63 and/or § 721.72 provisions if they are present at low levels and are not expected to reconcentrate in mixtures. The exemptions are provided in § 721.63(b) and § 721.72(e) and their application will make these SNURs consistent with those based on more recent section 5(e) consent orders. If a substance was determined to pose a cancer concern by structural-activity analysis or actual data (as described in this manner in the preamble that follows), it is exempt only if the level is 0.1 percent or less. All other substances must not exceed a 1.0 percent level in a mixture in order to qualify for the exemption. EPA's decision to allow exemptions at these levels was based on the Occupational Safety and Health Administration's hazard communication standard exemption of MSDS requirements in § 1910.1200(g)(2)(i)(C)(1) and (2) when substances are present at such low levels in mixtures.

Each of these SNURs involves information which has been claimed as CBI. When a generic chemical name appears in this unit, the specific name is claimed as CBI. In addition, some of the substances identified in this unit involve a production limit as a significant new use. Because the production limit is contained in the section 5(e) order and has been claimed as CBI, the regulatory text incorporates the production limit by reference to the section 5(e) order. The procedures for determining whether a specific substance and/or a specific significant new use which are CBI are covered by a specific SNUR are described in Unit VII.

PMN Number: P-83-1157

Chemical name: (generic) Substituted oxirane.
CAS Number: Not available. Effective date of section 5(e) consent order: September 25, 1984.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Based on data from bioassays of structurally analogous substances this substance may cause carcinogenicity. In addition, P-83-1157 is expected to cause pulmonary edema based on data from testing analogue substances and data received from the PMN submitter.
Recommended testing: Results from a 90-day subchronic rodent inhalation study could provide the data to further evaluate the potential risk of pulmonary edema. A 2-year bioassay in rodents would be necessary to further evaluate the potential carcinogenic risks of this substance.
CFR citation: 40 CFR 721.1504.

PMN Number: P-83-1222

Chemical name: (generic) Substituted alkyl halide.
CAS Number: Not available.
Effective date of section 5(e) consent order: September 25, 1984.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Based on data from bioassays of structurally analogous substances this substance may be carcinogenic. In addition, P-83-1222 is expected to cause pulmonary edema based on data from testing analogue substances and supporting data received from the PMN submitter.
Recommended testing: Results from a 90-day subchronic rodent inhalation study could provide the data to further evaluate the potential risk of pulmonary edema. A 2-year bioassay in rodents would be necessary to further evaluate the potential carcinogenic risks of this substance.
CFR citation: 40 CFR 721.1125.

PMN Number: P-83-1227

Chemical name: (generic) Perhalo alkoxy ether.
CAS Number: Not available.
Effective date of section 5(e) consent order: September 25, 1984.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: This substance is expected to cause pulmonary edema based on data from testing analogue substances.
Recommended testing: Results from a 90-day subchronic rodent inhalation study could provide the data to further evaluate the potential risk of pulmonary edema.
CFR citation: 40 CFR 721.1032.

PMN Number: P-84-492

Chemical name: (generic) Substituted hydroxylamine.
CAS Number: Not available.
Effective date of section 5(e) consent order: October 4, 1984.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Based on positive test results from the Ames assay and data on structurally analogous substances that shows carcinogenic effects in mice, this substance may be carcinogenic.
Recommended testing: A 2-year bioassay in rodents would be necessary to further evaluate the potential risks of this substance.

CFR citation: 40 CFR 721.1243.

PMN Number: P-86-1492

Chemical name: (generic) Alkyl peroxy-2-ethyl hexanoate.
CAS Number: Not available.
Effective date of section 5(e) consent order: January 21, 1987.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Data on structurally similar substances show carcinogenic activity based on testing a limited study of mice. In addition, this substance was positive results when tested in the Ames assay for mutagenicity. These data indicate that this substance may cause cancer.
Recommended testing: A 2-year bioassay could provide the data to enable a reasoned evaluation of the potential risks.
CFR citation: 40 CFR 721.1208.

PMN Number: P-88-522

Chemical name: Hydrazinecarboxamide, *N,N'*-(methylenedi-4,1-phenylene)bis[2,2-dimethyl-.
CAS Number: 85095-61-0.
Effective date of section 5(e) consent order: May 17, 1990.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Based on data from bioassays of the structurally analogous daminozide and its potential metabolite, 1,1-dimethylhydrazine, this substance may cause carcinogenicity. In addition, because this substance belongs to the class of substances, hydrazines, it may also cause liver and blood effects.
Recommended testing: A two-species oncogenicity bioassay as described in 40 CFR 798.3300.
CFR citation: 40 CFR 721.1235.

PMN Number: P-88-2470

Chemical name: (generic) Alkyl alkenoate, azobis-.
CAS Number: Not available.
Effective date of section 5(e) consent order: September 21, 1989.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Data on structurally similar substances show neurotoxic activity with a no-observed effect level of only 0.19 mg/kg/day.
Recommended testing: The following information is required to evaluate the risk posed by this substance: (1) A 90-day subchronic inhalation study (as described in 40 CFR 798.2450); (2) a functional observational battery (as described in 40 CFR 798.6050); (3) a motor activity study (as described in 40 CFR 798.6200; and (4) a neuropathology study (as described in 40 CFR 798.6400). These studies must be completed before the production volume exceeds a certain limit which is CBI. Data on potential exposures or releases of the substance, testing other than that specified in the section 5(e) order for the substance, or studies on analogous substances, which may demonstrate that the significant new uses being reported do not present an unreasonable risk, may be included with significant new use notification.
CFR citation: 40 CFR 721.454.

PMN Number: P-89-30

Chemical name: 2-Propenoic acid, 2-methyl-, 7-oxabicyclo[4.1.0]hept-3-ylmethyl ester.
CAS Number: 82428-30-6.
Effective date of section 5(e) consent order: June 11, 1990.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Structurally similar acrylates and epoxides have been shown to cause cancer when tested in laboratory animals. In addition, similar epoxides cause neurotoxicity and reproductive effects in laboratory animals. Therefore this substance may cause cancer, neurotoxicity, and reproductive effects.
Recommended testing: A 90-day dermal toxicity study in rats with functional observational battery, motor activity, and neuropathology and with fertility, reproductive organ toxicity, and clinical pathology as described in 40 CFR 798.2250. A 2-year, two-species rodent bioassay as described in 40 CFR 798.3300.
CFR citation: 40 CFR 721.1822.

PMN Number: P-89-31

Chemical name: 2-Propenoic acid, 7-oxabicyclo[4.1.0]hept-3ylmethyl ester.
CAS Number: 64630-63-3.
Effective date of section 5(e) consent order: June 11, 1990.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Structurally similar acrylates and epoxides have been shown to cause cancer when tested in laboratory animals. In addition, similar epoxides cause neurotoxicity and reproductive effects in laboratory animals. Therefore this substance may cause cancer, neurotoxicity, and reproductive effects.
Recommended testing: A 90-day dermal toxicity study in rats with functional observational battery, motor activity, and neuropathology and with fertility, reproductive organ toxicity, and clinical pathology as described in 40 CFR 798.2250. A 2-year, two-species rodent bioassay as described in 40 CFR 798.3300.
CFR citation: 40 CFR 721.1815.

PMN Number: P-89-750

Chemical name: (generic) Bisphenol A, epichlorohydrin, polyalkylenepolyol and polyisocyanato derivative.
CAS Number: Not available.
Effective date of section 5(e) consent order: June 7, 1990.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health and the environment.
Toxicity concern: Based on data from studies of similar substances, this substance may cause cancer, mutations, and male reproductive effects. In addition, structurally similar substances have shown toxicity to aquatic organisms.
Recommended testing: Studies performed according to the following guidelines could provide the data for further evaluation of the substance: (1) A 2-year, two-species rodent bioassay (40 CFR 798.3300); (2) fish 96-hour acute (40 CFR 797.1400); (3) daphnid 48-hour acute (40 CFR 797.1300); (4) algal 96-hour acute (40 CFR 797.1050). Production may not exceed a certain CBI limit unless a 90-day subchronic oral study (40 CFR 798.2650) is performed with special attention to pathology of reproductive organs. Data on potential exposures or releases of the substance, testing other than that specified in the section 5(e) order for the substance, or studies on analogous substances, which may demonstrate that the significant new uses being reported do not present an unreasonable risk, may be included with significant new use notification.
CFR citation: 40 CFR 721.609.

PMN Number: P-89-760

Chemical name: (generic) Reaction product of alkanediol and epichlorohydrin.
CAS Number: Not available.
Effective date of section 5(e) consent order: June 7, 1990.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health and the environment.
Toxicity concern: Based on data from studies of similar substances, this substance may cause cancer, mutations, and male reproductive effects. In addition, structurally similar substances have shown toxicity to aquatic organisms.
Recommended testing: Studies performed according to the following guidelines could provide the data for further evaluation of the substance: (1) A 2-year, two-species rodent bioassay (40 CFR 798.3300); (2) fish 96-hour acute (40 CFR 797.1400); (3) daphnid 48-hour acute (40 CFR 797.1300); (4) algal 96-hour acute (40 CFR 797.1050). Production may not exceed a certain CBI limit unless a 90-day subchronic oral study (40 CFR 798.2650) is performed with special attention to pathology of reproductive organs. Data on potential exposures or releases of the substance, testing other than that specified in the section 5(e) order for the substance, or studies on analogous substances, which may demonstrate that the significant new uses being reported do not present an unreasonable risk, may be included with significant new use notification.
CFR citation: 40 CFR 721.953.

PMN Number: P-89-810

Chemical name: (generic) Polymer of polyethylenepolyamine and alkanediol diglycidyl ether.
CAS Number: Not available.
Effective date of section 5(e) consent order: May 24, 1990.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and that there may be significant or substantial human exposure to the substance.
Recommended testing: EPA has determined that the results of the following tests would help characterize possible effects of the substance: A 28-day oral toxicity test as described in OECD Guideline No. 407 that also includes, for all test doses, a neurotoxicity functional observational battery (40 CFR 798.6050) with the highest test dose set at 1,000 mg/kg, and, for the highest dose group only, a histopathologic examination extended to include testes/ovaries and lungs; an acute oral as described in 40 CFR 798.1175, an Ames Assay as described in 40 CFR 798.5265, and a mouse micronucleus which shall be conducted by the intraperitoneal route as described in 40 CFR 798.5395. The PMN submitter has agreed not to proceed the production volume limit with out performing these tests.
CFR citation: 40 CFR 721.1646.

PMN Number: P-89-906

Chemical name: Silane, (1,1-dimethylethoxy)dimethoxy (2-methylpropyl)-.
CAS Number: Not available.
Effective date of section 5(e) consent order: June 5, 1990.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Data on low molecular weight siloxanes show that these substances cause irreversible lung toxicity following inhalation exposures. Therefore, this substance is suspected of causing the same irreversible lung toxicity effect as that associated with siloxanes. Inhalation exposures to vapors or aerosols containing this substance are especially of concern.
Recommended testing: A 90-day subchronic inhalation study performed in accordance with 40 CFR 798.2450 would provide information to further evaluate the irreversible lung effects associated with this substance. This study must be completed prior to exceeding a certain CBI production volume limit. Data on potential exposures or releases of the substance, testing other than that specified in the section 5(e) order for the substance, or studies on analogous substances, which may demonstrate that the significant new uses being reported do not present an unreasonable risk, may be included with significant new use notification.
CFR citation: 40 CFR 721.1895.

PMN Number: P-89-998

Chemical name: (generic) Polyaromatic urethane.
CAS Number: Not available.
Effective date of section 5(e) consent order: July 11, 1986.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and may reasonably be anticipated to enter the environment in substantial quantities.
Toxicity concern: Data from structurally similar substances show that this substance may cause acute toxicity to aquatic organisms.
Recommended testing: Performing the following studies would provide data to further evaluate the potential risks of acute toxicity: An acute algal (40 CFR 797.1050); an acute daphnid (40 CFR 797.1300); and acute fish (40 CFR 797.1400).
CFR citation: 40 CFR 721.2568.

IV. Objectives and Rationale of the Rule

During review of the PMNs submitted for the chemical substances that are subject to this SNUR, EPA concluded that for certain of the substances, regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health effects of the substance. The basis for such findings is outlined in Unit III. of this preamble. Based on these findings, a section 5(e) consent order requiring the use of appropriate controls was negotiated with the PMN submitter, and the SNUR provisions for such substances are consistent with the provisions of the section 5(e) orders.

EPA is issuing this SNUR for specific chemical substances which have undergone premanufacture review to ensure the following objectives: That EPA will receive notice of any company's intent to manufacture, import, or process a listed chemical substance for a significant new use before that activity begins; that EPA will have an opportunity to review and evaluate data submitted in a SNUR notice before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for a significant new use; that, when necessary to prevent unreasonable risks, EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before a significant new use of that substance occurs; and that all manufacturers, importers, and processors of the same chemical substance which is subject to a section 5(e) order are subject to similar requirements.

V. Direct Final Procedure

EPA is issuing these SNURs as direct final rules, as described in 40 CFR 721.160(c)(3) and 721.170(d)(4). In accordance with 40 CFR 721.160(c)(3)(ii), these rules will be effective January 7, 1991, unless EPA receives a written notice by December 6, 1990 that

someone wishes to make adverse or critical comments on EPA's action. If EPA receives such a notice, EPA will publish a notice to withdraw the direct final SNUR(s) for the specific substance(s) to which the adverse or critical comments apply. EPA will then propose a SNUR for the specific substance(s) providing a 30-day comment period.

This action establishes SNURs for several chemical substances. Any person who submits a notice of intent to submit adverse or critical comments must identify the substance and the new use to which it applies. EPA will not withdraw a SNUR for a substance not identified in a notice.

VI. Test Data and Other Information

EPA recognizes that section 5 of TSCA does not require developing any particular test data before submission of a SNUR notice. Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. In cases where a section 5(e) order recommends certain testing, Unit III. of this preamble lists those recommended tests.

However, EPA has established production limits in the section 5(e) orders for several of the substances regulated under this rule, in view of the lack of data on the potential health risks that may be posed by the significant new uses or increased exposure to the substances. These production limits cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by these substances. Under recent consent orders, each PMN submitter is required to submit each study at least 14 weeks (earlier orders required submissions at least 12 weeks) before reaching the specified production limit. A listing of the tests specified in the section 5(e) orders is included in Unit III. of this preamble. The SNURs contain the same production limits as the consent orders. Exceeding these production limits is defined as a significant new use.

The recommended studies may not be the only means of addressing the potential risks of the substance. However, SNUR notices submitted for significant new uses without any test data may increase the likelihood that EPA will take action under section 5(e), particularly if satisfactory test results have not been obtained from a prior submitter. EPA recommends that potential SNUR notice submitters contact EPA early enough so that they will be able to conduct the appropriate tests before reaching the production limit.

SNUR notice submitters should be aware that EPA will be better able to evaluate SNUR notices which provide detailed information on: (1) Human exposure and environmental release that may result from the significant new use of the chemical substances; (2) potential benefits of the substances; and (3) information on risks posed by the substances compared to risks posed by potential substitutes.

VII. Procedural Determinations

EPA is establishing through this rule some significant new uses which have been claimed as CBI. EPA has decided it is appropriate to keep this information confidential to protect the interest of the original PMN submitter. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI. This procedure appears in 40 CFR 721.575(b)(1) and is similar to that in § 721.11 for situations where the chemical identity of the substance subject to a SNUR is CBI. This procedure is cross-referenced in each of these SNURs.

A manufacturer or importer may request EPA to determine whether a proposed use would be a significant new use under this rule. Under the procedure from § 721.575(b)(1), a manufacturer or importer must show that it has a *bona fide* intent to manufacture or import the substance and must identify the specific use for which it intends to manufacture or import the substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or import the substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.575(b)(1) with that under § 721.11 into a single step.

If a manufacturer or importer is told that a production volume identified in the *bona fide* submission would not be a significant new use, i.e. it is below the level that would be a significant new use, that person can manufacture or import the substance as long as the aggregate amount does not exceed that which was specified in the *bona fide* submission to EPA. If the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether the higher volume would be a significant new use. EPA is considering whether to adopt a special procedure for use when CBI production volume is designated as a significant new use. Under such a procedure, a person showing a *bona fide* intent to manufacture or import the substance, under the procedure described in § 721.11, would automatically be informed of the production volume that would be a significant new use. Thus the person would not have to make multiple *bona fide* submissions to EPA for the same substance to remain in compliance with the SNUR, as could be the case under the procedures in § 721.575(b)(1).

VIII. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant "new" use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have undergone premanufacture review. A section 5(e) order has been issued in all these cases and notice submitters are prohibited by the section 5(e) orders from undertaking activities which EPA is designating as significant new uses. In cases where EPA has not received a Notice of Commencement (NOC) and the substance has not been added to the TSCA Inventory, no other person may commence such activities without first submitting a PMN. For substances for which an NOC has not been submitted at this time, EPA has concluded that the uses are not ongoing. However, EPA recognizes that in cases when chemical substances identified in these SNURs are added to the Inventory prior to the effective date of the rule, the substances may be manufactured, imported, or processed by other persons for a significant new use as defined in this rule before the effective date of the rule. However, 10 of these 14 substances have CBI chemical identities, and since EPA has received no corresponding post-PMN *bona fide* submissions, the Agency believes that it is unlikely that many, if any, of the significant new uses described in the following regulatory text are ongoing.

As discussed at 55 FR 17376, EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of this date of publication rather than as of the effective date of the rule. Thus, persons who begin commercial manufacture, import, or processing of the substances regulated through this SNUR will have to cease any such activity on the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait

until the notice review period, including all extensions, expires.

EPA has promulgated provisions to allow persons to comply with these SNURs before the effective date. If persons were to meet the conditions of advance compliance in § 721.45(h) (53 FR 28354, July 17, 1988), those persons will be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between publication and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity on the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

IX. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substance subject to this rule. EPA's complete economic analysis is available in the public record for this rule (OPTS-50588).

X. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS–50588). The record includes information considered by EPA in developing this rule.

A public version of the record, without any confidential business information, is available in the TSCA Public Docket Office from 8 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays. The TSCA Public Docket Office is located in Rm. NE–G004, 401 M St., SW., Washington, DC.

XI. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule will not be a "major" rule because it will not have an effect on the economy of $100 million or more, and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule, EPA estimates that the cost for submitting a significant new use notice would be approximately $4,500 to $11,000, including a $2,500 user fee payable to EPA to offset EPA costs in processing the notice. EPA believes that, because of the nature of the rule and the substances involved, there will be few SNUR notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, EPA expects to receive few SNUR notices for the substances. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial, even if all of the SNUR notice submitters were small firms.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and have been assigned OMB control number 2070–0012.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Management and Budget, Paperwork Reduction Project (2070–0012), Washington, DC 20503.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: October 24, 1990.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. By adding new § 721.454 to subpart E to read as follows:

§ 721.454 Alkyl alkenoate, azobis-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkyl alkenoate, azobis- (PMN P–88–2470) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i) through (a)(5)(iii), (a)(6)(ii), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(2), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(ii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(v), and (g)(5). The provisions of § 721.72(d) requiring employees to be provided with information on the location and availability of a written hazard communication program and MSDSs do not apply when the written program and MSDS are not required under § 721.72(a) and (c), respectively. The provision of § 721.72(g) requiring placement of specific information on an MSDS does not apply when an MSDS is not required under § 721.72(c).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l) and (q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a), (b), (c), (e), (f), (g), and (h).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The

provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

3. By adding new § 721.609 to subpart E to read as follows:

§ 721.609 Bisphenol A, epichlorohydrin, polyalkylenepolyol and polyisocyanato derivative.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as bisphenol A, epichlorohydrin, polyalkylenepolyol and polyisocyanato derivative (PMN P–89–750) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(viii), (a)(5)(ix), (a)(6)(ii), (a)(6)(v), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f) and (g)(1)(vi), (g)(1)(vii), (g)(2)(i) through (g)(2)(v), (g)(3)(ii), (g)(4)(i), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l) and (q) (The production limit applies to the aggregate production volume of both P–89–750 and P–89–760. P–89–760 is the preferred substance for use in performing these tests. Results from such testing can be used to evaluate the toxicity of P–89–750 as well).

(iv) *Disposal.* Requirements as specified in §721.85(b)(1), (b)(2), (c)(1), and (c)(2).

(v) *Release to water.* Requirements as specified in §721.90(a)(2)(ii) (Oil and grease separation may be used as an alternative treatment.), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and (k).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

4. By adding new § 721.953 to subpart E to read as follows:

§ 721.953 Reaction product of alkanediol and epichlorohydrin.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as reaction product of alkanediol and epichlorohydrin (PMN P–89–760) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(viii), (a)(5)(ix), (a)(6)(ii), (a)(6)(v), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), and (g)(1)(vi), (g)(1)(vii), (g)(2)(i) through (g)(2)(v), (g)(3)(ii), (g)(4)(i), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l), and (q). (The production limit applies to the aggregate production volume of both P–89–750 and P–89–760. Results from testing this substance can be used to evaluate the toxicity P–89–750 as well.)

(iv) *Disposal.* Requirements as specified in §721.85(b)(1), (b)(2), (c)(1), and (c)(2).

(v) *Release to water.* Requirements as specified in §721.90(a)(2)(ii) (Oil and grease separation may be used as an alternative treatment.), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and (k).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

5. By adding new § 721.1032 to subpart E to read as follows:

§ 721.1032 Perhalo alkoxy ether.

(a) *Chemical substance and significant new uses subject to reporting.*(1) The chemical substance identified generically as perhalo alkoxy ether (PMN P–83–1227) is subject to reporting under this section for the significant new uses described in paragraph(a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i) through (a)(5)(iii), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communicatiom program.* Requirements as specified in § 721.72(d), (e) (concentration set at 1.0 percent), (f), (g)(1)(ii), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), and (g)(2)(v). The provisions of § 721.72(d) requiring employees to be provided with information on the location and availability of a written hazard communication program and MSDSs do not apply when the written program and MSDS are not required under § 721.72(a), and (c), respectively. The provisions of § 721.72(g) requiring placement of specific information on a label and MSDS do not apply when a label and MSDS are not required under § 721.72(b), and (c), respectively.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(h).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a), (b), (c), (e), and (f).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

6. By adding new § 721.1125 to subpart E to read as follows:

§ 721.1125 Substituted alkyl halide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted alkyl halide (PMN P–83–1222) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i) through (a)(5)(iii), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(d), (e) (concentration set at 0.1 percent), (f), (g)(1)(ii), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), and (g)(2)(v). The provisions of § 721.72(d) requiring employees to be provided with information on the location and availability of a written hazard communication program and MSDSs do not apply when the written program and MSDS are not required under § 721.72(a), and (c), respectively. The provisions of § 721.72(g) requiring placement of specific information on a label and MSDS do not apply when a label and MSDS are not required under § 721.72(b), and (c), respectively.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(h).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a), (b), (c), (e), and (f).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

7. By adding new § 721.1208 to subpart E to read as follows:

§ 721.1208 Alkyl peroxy-2-ethyl hexanoate.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkyl peroxy-2-ethyl hexanoate (PMN P–86–1492) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(2), (d), (e)(concentration set at 0.1 percent), (f), (g)(1)(vii), (g)(2)(i), (g)(2)(v), and (g)(5). The provisions of § 721.72(d) requiring employees to be provided with information on the location and availability of a written hazard communication program and MSDSs do not apply when the written program and MSDS are not required under § 721.72(a), and (c), respectively. The provision of § 721.72(g) requiring placement of specific information on an MSDS does not apply when an MSDS is not required under § 721.72(c).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k).

(iv) *Disposal.* Requirements as specified in §721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(v) *Release to water.* Requirements as specified in §721.90(a)(3) (on-site only), (b)(3) (on-site only), and (c)(3) (on-site only).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a), (b), (c), (e), (f), (g), (h), (j), and (k).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

8. By adding new § 721.1235 to subpart E to read as follows:

§ 721.1235 Hydrazinecarboxamide, N,N'-(methylenedi-4,1-phenylene)bis[2,2-dimethyl-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance hydrazinecarboxamide, *N,N'*-(methylenedi-4,1-phenylene]bis[2,2-dimethyl- (PMN P–88–522] is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(viii) through (a)(5)(xiv), (a)(6)(i), (a)(6)(ii), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(2), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(iv) (and blood effects), (g)(1)(vii), (g)(2)(iv), (g)(2)(v), (g)(4)(iii), and (g)(5). The provisions of § 721.72(d) requiring employees to be provided with information on the location and availability of a written hazard communication program and MSDSs do not apply when the written program and MSDS are not required under § 721.72(a), and (c), respectively. The provision of § 721.72(g) requiring placement of specific information on an MSDS does not apply when an MSDS is not required under § 721.72(c).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), and (l).

(iv) *Release to water.* Requirements as specified in §721.90(b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a), (b), (c), (e), (f), (g), (h), and (k).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

9. By adding new § 721.1243 to subpart E to read as follows:

§ 721.1243 Substituted hydroxylamine.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted hydroxylamine (PMN P–84–492) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(2), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vii), and (g)(2)(i) through (g)(2)(iii). The provisions of § 721.72(d) requiring employees to be provided with information on the location and availability of a written hazard communication program and MSDSs do not apply when the written program and MSDS are not required under § 721.72(a), and (c), respectively. The provision of § 721.72(g) requiring placement of specific information on an MSDS does not apply when an MSDS is not required under § 721.72(c).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k).

(iv) *Release to water.* Requirements as specified in §721.90(a)(4) (chemically treated liquid wastes must contain no more than 10 ppm of the substance prior to discharge), (b)(4) (chemically treated liquid wastes must contain no more than 10 ppm of the substance prior to discharge), and (c)(4) (chemically treated liquid wastes must contain no more than 10 ppm of the substance prior to discharge).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a), (b), (c), (e), (f), and (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

10. By adding new § 721.1504 to subpart E to read as follows:

§ 721.1504 Substituted oxirane.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted oxirane (PMN P–83–1157) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i) through (a)(5)(iii), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(d), (e) (concentration set at 0.1 percent), (f), (g)(1)(ii), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), and (g)(2)(v). The provisions of § 721.72(d) requiring employees to be provided with information on the location and availability of a written hazard communication program and MSDSs do not apply when the written program and MSDS are not required under § 721.72(a), and (c), respectively. The provisions of § 721.72(g) requiring placement of specific information on a label and MSDS do not apply when a label and MSDS are not required under § 721.72(b), and (c), respectively.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(h).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a), (b), (c), (d), (e), (f), and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

11. By adding new § 721.1646 to subpart E to read as follows:

§ 721.1646 Polymer of polyethylenepolyamine and alkanediol diglycidyl ether.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polymer of polyethylenepolyamine and alkanediol diglycidyl ether (PMN P–89–810) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communicatiom program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows.

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health or the environment, the employer must incorporate this new information, and any information on methods for protecting against such risk, into a Material Safety Data Sheet (MSDS) which includes a written listing of safety data for this substance within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who have received, or will receive, this substance from the employer are provided an MSDS containing a written listing of safety data for this chemical and the information required under paragraph (a)(2)(i)(A) within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(p) (2,000,000 kg).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a), (c), and (h) (In addition, each manufacturer, importer and processor of this substance shall maintain for five years from the date of their creation, copies of material safety data sheets required under paragraph (a)(2)(i)(A) of this section).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

12. By adding new § 721.1815 to subpart E to read as follows:

§ 721.1815 2-Propenoic acid, 7-oxabicyclo[4.1.0]hept-3-ylmethyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance 2-propenoic acid, 7-oxabicyclo[4.1.0]hept-3-ylmethyl ester (PMN P–89–31) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(viii), (a)(5)(xv), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(iii), (g)(1)(vi), (g)(1)(vii), (g)(2)(i) through (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers,

and processors of this substance, as specified in § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

13. By adding new § 721.1822 to subpart E to read as follows:

§ 721.1822 2-Propenoic acid, 2-methyl-, 7-oxabicyclo [4.1.0]hept-3-ylmethyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance 2-propenoic acid, 2-methyl-, 7-oxabicyclo[4.1.0]hept-3-ylmethyl ester (PMN P–89–30) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(viii), (a)(5)(xv), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(iii), (g)(1)(vi), (g)(1)(vii), (g)(2)(i) through (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

14. By adding new § 721.1895 to subpart E to read as follows:

§ 721.1895 Silane, (1,1-dimethylethoxy)dimethoxy(2-methyl propyl)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance silane, (1,1-dimethylethoxy) dimethoxy (2-methylpropyl)- (PMN P–89–906) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4), (a)(5)(iv) through (a)(5)(vii), (a)(6)(i) through (a)(6)(vi), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(ii), (g)(2)(ii), (g)(2)(iv), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a), (b), (c), (d), (f), (g), (h), and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

15. By adding new § 721.2568 to subpart E to read as follows:

§ 721.2563 Polyaromatic urethane.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyaromatic urethane (PMN P–89–998) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communicatiom program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows.

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health or the environment, the employer must incorporate this new information, and any information on methods for protecting against such risk, into a Material Safety Data Sheet (MSDS) which includes a written listing of safety data for this substance within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who have received, or will receive, this substance from the employer are provided an MSDS containing a written listing of safety data for this chemical and the information required under paragraph (a)(2)(i)(A) within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(p) (146,000 kg).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a), (c), and (h) (In addition, each manufacturer, importer and processor of this substance shall maintain for 5 years from the date of their creation, copies of material safety data sheets required under paragraph (a)(2)(i)(A) of this section).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

[FR Doc. 90–26233; Filed 11–5–90; 8:45 am]

BILLING CODE: 6560–50–F

federal register

Tuesday
November 6, 1990

Part III

International Trade Commission

Chrome-Plated Lug Nuts from the People's Republic of China and Taiwan, and Certain Electric Fans from the People's Republic of China; Notices

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-474 and 731-TA-475 (Preliminary)]

Chrome-Plated Lug Nuts From the People's Republic of China and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigations Nos. 731-TA-474 and 731-TA-475 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China and Taiwan of chrome-plated lug nuts,[1] provided for in subheading 7318.16.00.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by December 17, 1990

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: November 1, 1990.

FOR FURTHER INFORMATION CONTACT: Olympia DeRosa Hand (202-252-1182), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on November 1, 1990, by Consolidated International Automotive, Inc., Los Angeles, CA.

Participation in the investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list.—Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in these preliminary investigations to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m. on November 21, 1990, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Olumpia Hand (202-252-1182) not later than November 16, 1990, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions.—Any person may submit to the Commission on or before November 26, 1990, a written brief containing information and arguments pertinent to the subject matter of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). If briefs contain business proprietary information, a nonbusiness proprietary version is due November 27, 1990. A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their written brief, and may also file additional written comments on such information no later than November 29, 1990. Such additional comments must be limited to comments on business proprietary information received in or after the written briefs. A nonbusiness proprietary version of such additional comments is due November 30, 1990.

[1] For purposes of this investigation, the term "chrome-plated lug nuts" refers to chrome-plated lug nuts, either closed-end or open-end ("one-piece" style) or open-end with caps and heads attached or separate ("two-piece" style), which are used for securing wheels onto cars, vans, trucks, utility vehicles and trailers. Chrome-plated locknuts are not included in the subject product. The subject lug nuts are primarily ¾" to 1⅛" hexagonal nuts, although the sizes may also be described in metric measurements. Most chrome-plated lug nuts are made from steel and, prior to plating, must have a polished surface. Chrome-plated lug nuts are provided for in subheading 7318.16.00.00 of the Harmonized Tariff Schedule of the United States (HTS) (item 646.5600 of the Tariff Schedules of the United States Annotated (TSUSA)).

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: November 2, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-26377 Filed 11-5-90; 8:45 am]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-473 (Preliminary)]

Certain Electric Fans From the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-473 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China of certain electric fans,[1] provided for in subheading 8414.51.00 of the Harmonized Tariff Schedule of the United States (previously in item 661.06 of the former Tariff Schedules of the United States), that are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by December 17, 1990.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedures, part 207, subparts A and B (19 CFR part 207), and part 201, subparts A through E (19 CFR 201).

[1] For the purposes of this investigation, the term "certain electric fans" is defined as ceiling fans and oscillating fans, with a self-contained electric motor of an output not exceeding 125 watts. Ceiling fans direct a downward flow of air using a fan blade/motor unit fixed permanently or semi-permanently in the ceiling. The petition defines oscillating fans as fans whose fan/motor unit pivots back and forth on a stationary base through 90 degrees of arc. The petition does not include industrial or commercial ventilation fans or window fans.

EFFECTIVE DATE: October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Mary Trimble (202-252-1193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to petitition filed on October 31, 1990, by Lasko Metal Products, Inc., West Chester, PA.

Participation in the ivnestigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation msut be served on all other parties to the investigation (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list.—Pursuant to 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in this preliminary investigation to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submissipn by parties containing business proprietary informationwithout a certificate of service indicating that it has been served on all the parties that authorized to receive such information under a protective order.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on November 21, 1990, at the U.S International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Mary Trimble (202-252-1193) not later than November 19, 1990, to arrange for their appearance. parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions.—Any person may submit to the Commission on or before November 26, 1990, a written brief containing information and arguments pertinent to the subject matter of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). If briefs contain business proprietary information, a nonbusiness proprietary version is due November 27, 1990. A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their written brief, and may also file additional written comments on such information no later than November 29, 1990. Such additional comments must be

limited to comments on business proprietary information received in or after the written briefs. A nonbusiness proprietary version of such additional comments is due November 30, 1990.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules [19 CFR 207.12].

By order of the Commission.

Issued: November 2, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-26378 Filed 11-5-90; 8:45 am]

BILLING CODE 7020-02-M

federal register

Tuesday
November 6, 1990

Part IV

The President

Federal Register
Vol. 55, No. 215
Tuesday, November 6, 1990

Presidential Documents

Title 3—

The President

Proclamation 6221 of November 2, 1990

For a National Day of Prayer, November 2, 1990

By the President of the United States of America

A Proclamation

Throughout American history, the people of this Nation have depended on Almighty God for guidance and wisdom. Both Scripture and experience confirm that the Lord hears the prayers of those who place their trust in Him. Time and again, in peril and uncertainty, doubt and decision, we Americans have turned to God in prayer and, in so doing, found strength and direction.

Today the United States and, indeed, all civilized countries are being challenged by a dictator who would brazenly deny the sovereignty of other nations in order to achieve regional hegemony and to wield undue influence over the global economy. Iraqi forces continue to occupy neighboring Kuwait, terrorizing that nation's citizens in an affront to international law and fundamental standards of morality. Scores of U.S. civilians and citizens of other nations continue to be held hostage under inhuman conditions in both Kuwait and Iraq. Thousands have been made refugees fleeing from aggression in Kuwait and brutality in Iraq. To deter further aggression, thousands of American service men and women have been deployed and remain on duty in the demanding climate of the Persian Gulf region. They, too, face considerable hardship and danger. We are grateful for the loyalty, devotion to duty, and sacrifices of the members of our Armed Forces. Yet we know that military strength alone cannot save a nation or bring it prosperity and peace; as the Scripture speaks, "Unless the Lord watches over the city, the watchman stays awake in vain." With these grave concerns before us, we do well to recall as a Nation the power of faith and the efficacy of prayer.

The Psalmist proclaimed: "God is our refuge and strength, a very present help in trouble." Today let us turn to Him, both as individuals and as a Nation, to ask for His continued mercy and guidance. Let us pray for peace in the Persian Gulf, and let us ask the Lord to protect all those Americans and citizens of other nations, who are working to uphold the universal cause of freedom and justice half a world away from home. May it please the Lord to grant all leaders of nations involved in this crisis the wisdom and courage to work towards its just and speedy resolution.

The Congress, by House Joint Resolution 673, has authorized and requested the President to issue a proclamation designating November 2, 1990, as a National Day of Prayer.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim November 2, 1990, as a National Day of Prayer for American service personnel and American civilians stationed or held hostage in the Persian Gulf region. I urge all Americans to pause on this day to pray for these individuals and their families. I ask that prayer be made for the commanders of American military forces in the region and leaders in other nations that have deployed military forces in the Middle East to stop this aggression. I also urge the American people and their elected representatives to give thanks to God for His mercy and goodness and humbly to ask for His continued help and guidance in all our endeavors.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of November, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 90-26393
Filed 11-5-90; 10:21 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 6222 of November 3, 1990

National Week to Commemorate the Victims of the Famine in Ukraine, 1932–1933

By the President of the United States of America

A Proclamation

During the brutal famine that struck the Ukrainian Soviet Socialist Republic from 1932 to 1933, more than seven million men, women, and children died of starvation. Tragically—and to the horror of all those who cherish the blessings of life and liberty—this deadly famine was not caused by drought or by failed harvests. Rather, it resulted from a cruel and deliberate effort to destroy the spirit and the will of the Ukrainian people.

Between 1932 and 1933 the Government of the Union of Soviet Socialist Republics, under the leadership of Joseph Stalin, willfully permitted and even encouraged mass starvation in Ukraine. In an effort to enforce the collectivization of agriculture and to eliminate resistance to Moscow's rule by terror, Soviet authorities not only seized Ukrainian farmers' 1932 crop but also prevented desperately needed aid from reaching impoverished villages.

The United States Commission on the Ukraine Famine, mandated by the Congress to study this terrible tragedy and to expand public knowledge of it, has substantiated the belief that the famine was indeed the result of deliberate policies of the Soviet Government of that time. After months of hearings, eyewitness testimony, and the careful consideration of other documentation, the Commission concluded: "There is no doubt that large numbers of inhabitants of the Ukrainian SSR and the North Caucasus Territory starved to death in a man-made famine in 1932–1933, caused by the seizure of the 1932 crop by Soviet authorities."

This year the Central Committee of the Ukrainian Communist Party acknowledged that the famine was caused and sustained by Stalin and his associates. The current Soviet Government, led by President Gorbachev, has begun to confront the terrible legacy of Stalin and his era. It has begun to take important initial steps toward filling in the "blank pages" of Soviet history and ensuring the respect for human rights and human dignity that is essential to prevent such events from ever happening again. These steps are important, and they are encouraging.

As the United States Commission on the Ukraine Famine asserted, it is hoped that the lessons learned through this terrible tragedy, including "the concealment of criminal policies by those who perpetrate them," might provide insights which can be of use in confronting the challenges of similar events. This week, in commemorating the Ukraine famine, we reaffirm our determination to do just that.

The Congress, by Senate Joint Resolution 329, has designated the week of November 3 through November 10, 1990, as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932–1933." The Congress has also requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of November 3 through November 10, 1990, as National Week to Commemorate the Victims of the Famine in Ukraine, 1932–1933. I call upon the people of the United States to observe this

week with appropriate programs, ceremonies, and activities that express our continued determination to uphold the God-given and inalienable rights and dignity of all human beings.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of November, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 90-26394
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Federal Register

Vol. 55, No. 215

Tuesday, November 6, 1990

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LIST OF PUBLIC LAWS

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

S. 2737/Pub. L. 101-495

Korean War Veterans Memorial Thirty-Eighth Anniversary Commemorative Coin Act. (Oct. 31, 1990; 104 Stat. 1187; 4 pages) Price: $1.00

S. 2753/Pub. L. 101-496

Developmental Disabilities Assistance and Bill of Rights Act of 1990. (Oct. 31, 1990; 104 Stat. 1191; 14 pages) Price: $1.00

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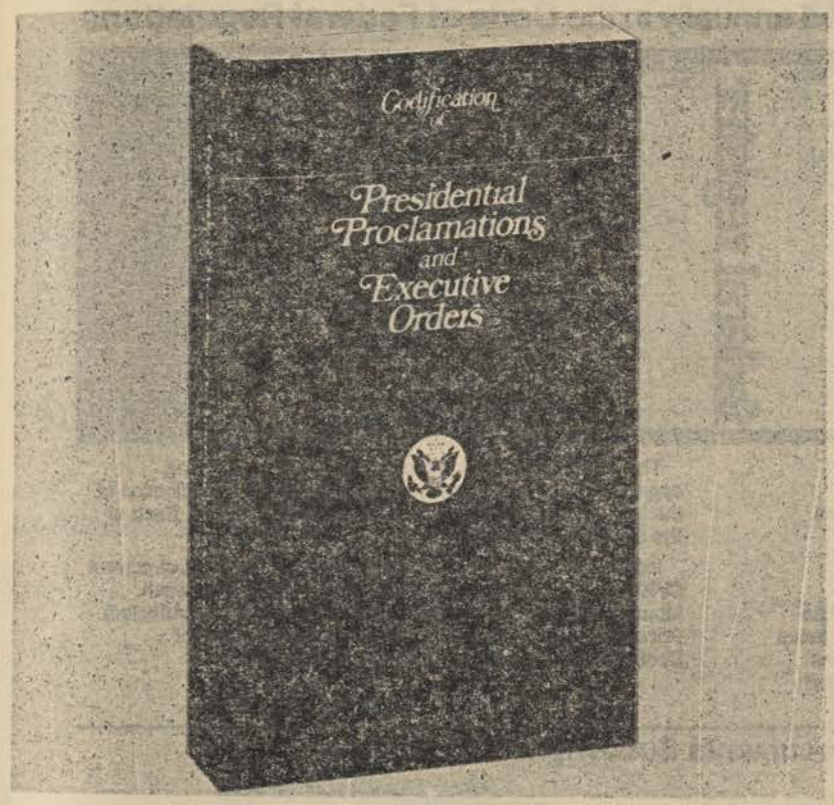

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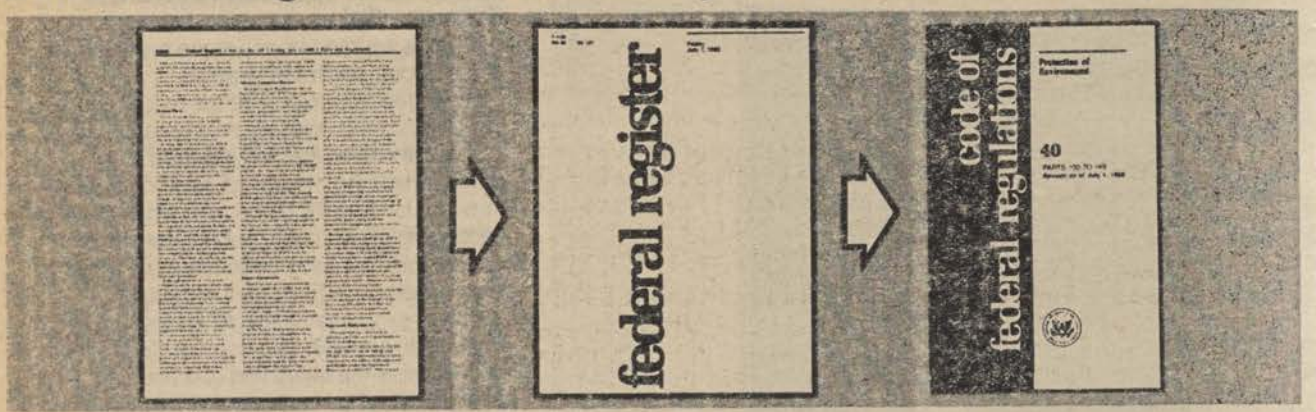

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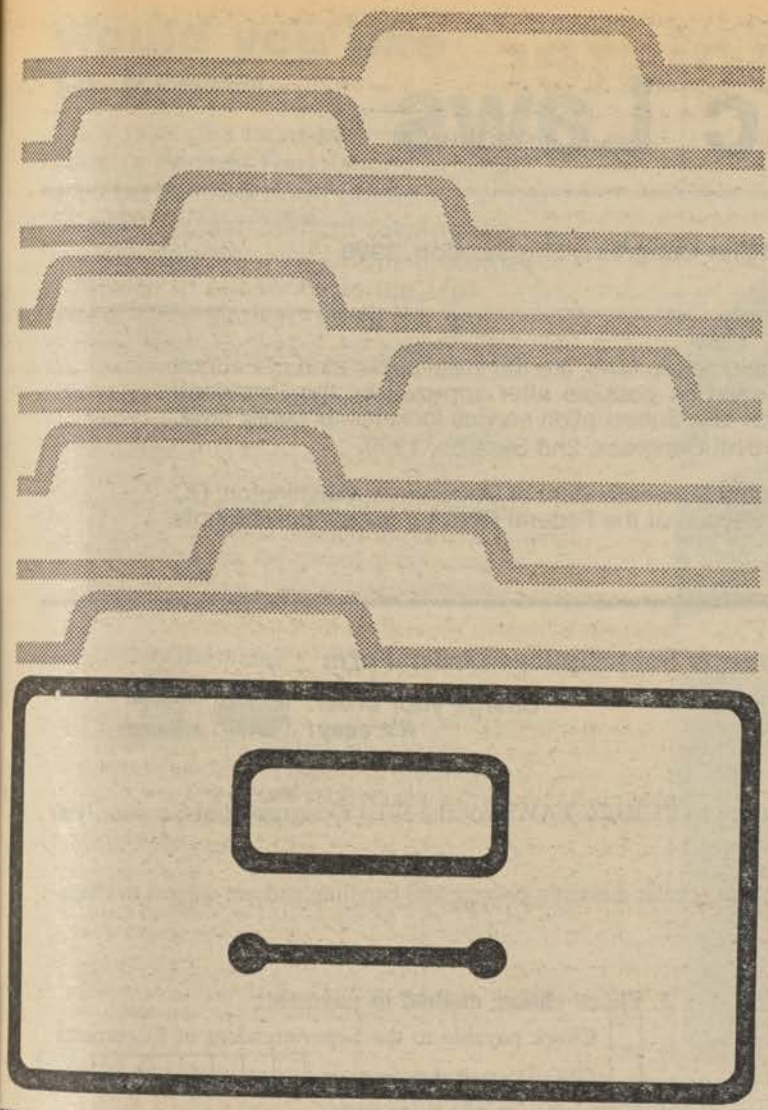

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in the Code of Federal Regulations (CFR)

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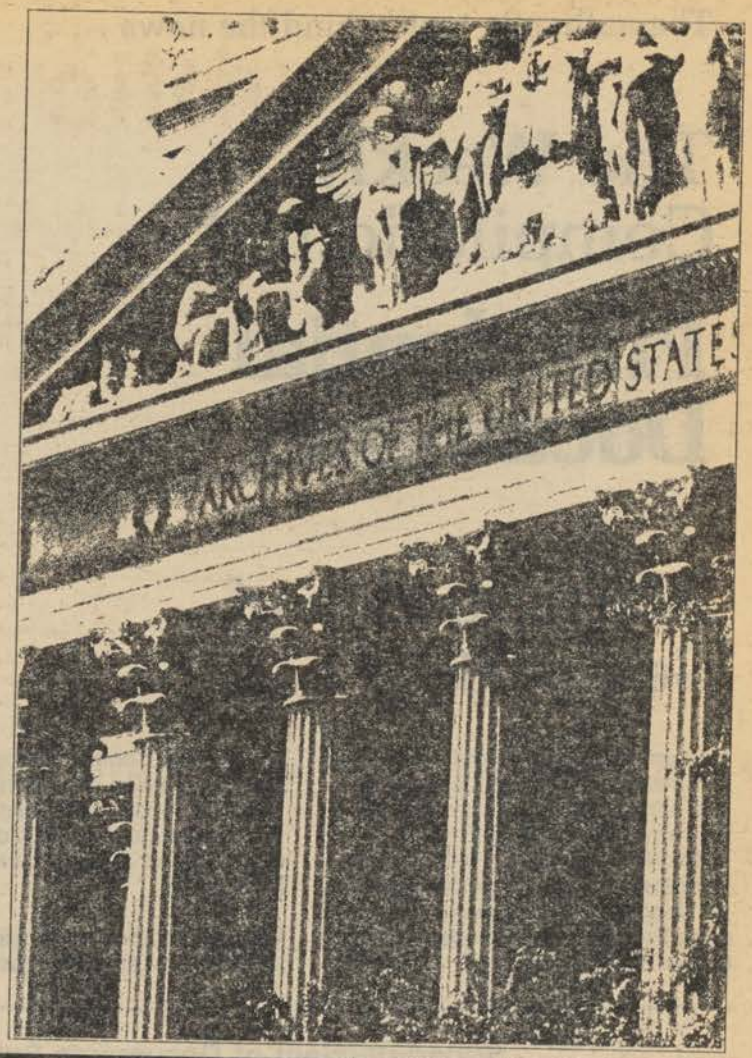

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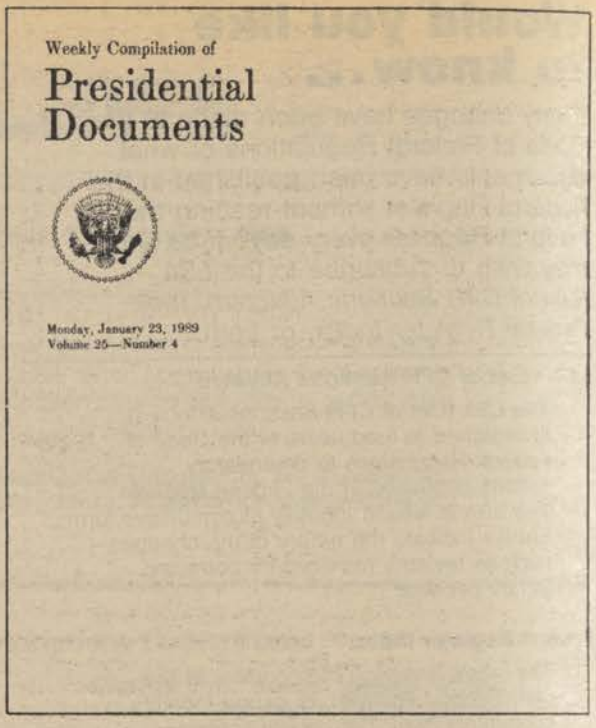

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